

CHAPTER 27

ZONING

Part 1

General Provisions

- §101. Short Title
- §102. Statement of Purpose
- §103. Application of Regulations
- §104. Community Development Objectives
- §105. Interpretation
- §106. Validity

Part 2

Definitions

- §201. Meaning of Terms
- §202. Definitions

Part 3

Zoning District Regulations

- §301. Creation of Zoning Districts
- §302. Zoning District Map and Boundaries
- §303. R-1 Single-family Residential District
- §304. R-2 Two Family Residential District
- §305. R-3 Multifamily Residential District
- §306. M - Mixed Use District
- §307. C-1 Community Business District
- §308. S - Special Use District

Part 4

General Use Standards

- §401. Purpose
- §402. General Provisions
- §403. General Height Provisions and Exception
- §404. General Lot Area Provisions and Exceptions
- §405. Accessory Uses
- §406. Off-Street Parking Requirements
- §407. Sign Regulations
- §408. Fencing and Screening, Retaining Walls
- §409. Off-Street Loading Requirements
- §410. Environmental Quality Standards
- §411. Home Occupations

Part 5

Planned Residential Development

- §501. Purpose
- §502. Development Standards
- §503. Application for Tentative Approval of PRD Plan
- §504. Status of Plan After Tentative Approval
- §505. Application for Final Approval of the PRD Plan
- §506. Status of Plan After Final Approval
- §507. Judicial Review
- §508. Fees

Part 6

Conditional Uses

- §601. Applicability
- §602. Application Procedure
- §603. General Standards and Criteria
- §604. Special Standards and Criteria

Part 7

Nonconforming Uses and Structures

- §701. Applicability
- §702. Changes to Nonconforming Structures
- §703. Changes to Nonconforming Uses
- §704. Change of Use
- §705. Construction Approved Prior to Ordinance
- §706. Abandonment
- §707. Unlawful Use not Authorized
- §708. Nonconforming Lot of Record
- §709. Status of Conditional Uses
- §710. Termination of Nonconforming Signs

Part 8

Administration and Enforcement

- §801. Zoning Officer
- §802. Required Zoning Permits
- §803. Schedule of Fees
- §804. Zoning Hearing Board
- §805. Functions of the Zoning Hearing Board
- §806. Appeals to Court
- §807. The Planning Commission
- §808. Amendments to the Zoning Ordinance or Map
- §809. Enforcement Notice
- §810. Causes of Action
- §811. Enforcement Remedies

Part 9

Zoning Map



Part 1

General Provisions

§101. Short Title. This Chapter shall be known and may be cited as the "Rochester Borough Zoning Ordinance," and the accompanying map shall be known and may be cited as the "Official Rochester Borough Zoning Map." (Ord. 11-84, 8/21/1984, §1.1)

§102. Statement of Purpose. The purpose of this Chapter is to promote the health, safety, morals and general welfare of the citizens of Rochester; to encourage the highest and best use of land throughout the Borough; to conserve and stabilize the value of property; to prevent overcrowding of lands and buildings; to avoid undue concentration of population; to lessen congestion; to secure safety from fire, panic and other dangers; to provide adequate open spaces for light and air, to facilitate adequate provision of streets and highways, water, sewerage, drainage and other public facilities; to conserve life, property and natural resources; and to conserve the expenditure of funds earmarked for public improvements. (Ord. 11-84, 8/21/1984, §1.2)

§103. Application of Regulations.

1. No building, structure or land shall hereafter be used or occupied; and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all the regulations herein specified for the district in which it is located.

2. No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Chapter shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building, unless otherwise provided by this Part.

3. No yard lot existing at the time of passage of this Chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after effective date of this Chapter shall meet at least the minimum requirements established by this Chapter.

4. All land which may hereafter be annexed to the Borough of Rochester shall be considered to be an R-1 Residential District until otherwise classified. In the event such land is annexed, the Borough shall make determination of land use classification within one (1) year of annexation.

(Ord. 11-84, 8/21/1984, §1.3)

§104. Community Development Objectives. The following is a statement of the purpose and intent of this Chapter. The objectives are adopted as a

statement of legislative finding and may be used in evaluating any proposed additions or deletions to this Chapter:

A. The general objective for the development of the Borough of Rochester is to provide a pleasant, attractive, health, safe and convenient environment for living, working, education, shopping and recreation. This objective shall be pursued by the creation and implementation of land use plans to:

- (1) Preserve and improve the natural environment.
- (2) Provide safe, adequate and attractive housing.
- (3) Increase property values, employment opportunities, and the economic base of the community.
- (4) Provide the necessary infrastructure of utilities and transportation arteries.
- (5) To provide recreational and community facilities.

B. The preservation and improvement of the environment shall be pursued by:

- (1) The elimination of visual and physical blight such as overhead utility lines, concentration of signs of excessive size and proximity, large expanses of excessive land coverage and dilapidated structures.
- (2) The preservation of natural topography, and the control of floodplains and watersheds.
- (3) The reclamation of under utilized land.

C. The provision of safe, adequate and attractive housing for the entire population of the community shall be pursued by:

- (1) The provision of a wide range of housing density alternatives and mix of housing types with the correlation of residential density and housing type with topography and the capacity of and distance from existing and proposed utilities, streets and community facilities.
- (2) The rehabilitation and removal of deteriorating housing, the maintenance of sound housing and the development of new housing.

D. The increase of property values, employment opportunities and the economic base of the community shall be pursued through the concentration of commercial and industrial uses in the areas where streets and utilities can provide the necessary services and where conflicts with other uses can be minimized through site design and transitional provisions.

E. The provision of necessary infrastructure of utilities and necessary transportation arteries shall be pursued by:

(1) The extension of the municipal improvements of water lines, storm and sanitary sewers and roads to guide and promote development.

(2) The encouragement of public utilities to improve and extend services consistent with the objectives set forth herein.

(3) Traffic planning and control which will provide safe, rapid and convenient movement of people and goods within and through the community, with a separation of through and local traffic, provision for pedestrians, and minimum disruption of existing and proposed development patterns and community integrity.

F. The provision of recreational and community facilities shall be pursued by:

(1) The preservation of outdoor and indoor recreational facilities to accommodate existing and future populations.

(2) The promotion of acquisition or dedication of natural open space for park and recreational purposes.

(3) The provision of recreational facilities in each residential area of the community.

G. The creation and implementation of land use plans shall seek to achieve the foregoing objectives and to:

(1) Achieve the purpose for which each zoning district is intended.

(2) Protect against the detrimental effect of incompatible land uses through natural vegetation, open space and natural breaks in topography.

(3) Concentrate development where possible to prevent sprawl, conserve open space and make full use of utilities and services.

(Ord. 11-84, 8/21/1984, §1.4)

§105. Interpretation.

1. Wherever the regulations within this Chapter are at variance with other lawfully adopted rules, regulations, ordinances and restrictions, those which impose the most restrictive requirements shall govern.

2. No structure or use which was not lawfully existing at the time of the adoption of this Part shall become or be made lawful solely by reason of the adoption of this Chapter, and to the extent that said unlawful structure

ZONING

is in conflict with the requirements of this Chapter, said structure remains unlawful hereunder.

3. Regardless of any other provision of this Chapter, no land shall be used and no structure erected or maintained in violation of any State and/or Federal environmental protection laws or regulation.

(Ord. 11-84, 8/21/1984, §1.5)

§106. Validity. Should any Section or provision of this Chapter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Chapter as a whole or any part thereof, and the Parts or Sections remaining shall remain in effect as though that Part declared invalid had never been a part hereof. (Ord. 11-84, 8/21/1984, §1.7)



Part 2

Definitions

§201. Meaning of Terms. For the purpose of this Chapter all terms and words used herein shall be interpreted or define as follows:

- A. Words used in the present tense shall include the future.
- B. Words in the singular shall include the plural.
- C. The word "person" shall include a corporation, partnership and association as well as an individual.
- D. The word "lot" shall include the words "plot" or "parcel."
- E. The term "shall" is always mandatory.
- F. The term "may" is always discretionary.
- G. The words "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged or designated to be used or occupied."
- H. The word "building" shall include the word "structure."

(Ord. 11-84, 8/21/1984, §2.1)

§202. Definitions.

ACCESSORY BUILDING or USE - a use, building or structure, the use of which is customarily incidental and subordinate to the main or principal use, building or structure and which is located on the same lot therewith.

ADULT USE BUSINESS - any commercial activity, whether conducted intermittently or full time, which primarily involves the sale, display, exhibition or viewing of books, magazines, films, photographs or other material, distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined herein. Adult use business shall also include live entertainment theaters, cabarets or licensed eating or drinking establishments which feature male or female nude or exotic dancers, topless dancers, strippers or similar entertainment. Adult use business shall also include:

A. Massage parlors or services, excepting any therapeutic, medical or surgical services or facilities of a regularly licensed hospital or dispensary, or the professional services of a physician, osteopath or chiropractor duly licensed by the Commonwealth of Pennsylvania.

B. Model studios furnishing figure models who pose nude for the purpose of being viewed, sketched, painted, drawn, sculptured, photo-

graphed or otherwise similarly depicted for persons who pay a fee or other consideration or compensation or gratuity for the right or opportunity for admission to or remaining upon the premise.

C. Mediation or sexual encounter centers, rap centers, peep shows or similar establishments, whose activities are characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" as defined herein.

D. Specified sexual activities shall include:

- (1) Human genitals in a State of sexual stimulation or arousal.
- (2) Acts of human masturbation, sexual intercourse or sodomy.
- (3) Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.

E. Specified anatomical areas shall include:

- (1) Less than completely and opaquely covered:
  - (a) Human genitals, pubic region.
  - (b) Buttocks.
  - (c) Female breast below a point immediately above the top of the areola.
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

ALLEY - a narrow service way providing a secondary public means of access to the rear or side of properties otherwise abutting on a street.

ALTERATIONS - an incidental change, rearrangement, replacement or enlargement in the structural parts or in the means of egress, whether by extending on a side or by increasing in height, or the moving from one (1) location or position to another; or by change in use from that of one (1) district classification to another.

APPLICANT - a landowner or developer, as hereinafter defined, who has filed an application for development including his/her heirs, successors and assigns.

APPLICATION FOR DEVELOPMENT - every application, whether preliminary, tentative or final required to be filed and approved prior to start of construction or development including but not limited to an application for a building permit, for the approval of a subdivision plat or plan or for the approval of a development plan. [Ord. 2-97]

AUTOMOBILE SERVICE STATION - building and premises where petroleum products, batteries, tires and automobile accessories may be supplied and

sold at retail, and where services may be rendered in connection with these products, including inspection, greasing, hand washing, polishing, servicing, and adjustment of vehicles.

**BASEMENT or CELLAR** - a building story partly underground but having at least one-half (½) of its height below the average level of the adjoining ground. A basement shall be counted as a building story for the purpose of determining height measurement if the vertical distance between the ceiling and the average level of adjoining ground is more than five (5) feet or if used for business or dwelling purposes.

**BILLBOARD** - a sign, other than one indicating a business conducted on the premises, upon which advertising matter or any character is printed, posted or lettered. Billboards include freestanding signs or those attached to the surface of a building.

**BOARDER** - a person who pays for and receives meals and lodging in a boarding house. [Ord. 1-89]

**BOARDING HOUSE** - any building, all or part of which is used or held out to be a place which provides meals and lodging regularly for pay to two (2) or more unrelated boarders. [Ord. 1-89]

**BOARD** - any body granted jurisdiction under a land use ordinance or under this Chapter to render final adjudications. [Ord. 2-97]

**BOROUGH** - the Borough of Rochester.

**BUFFER AREA** - an area of land which may include natural or artificial land forms or a planted area with shrubs, bushes, trees, grass or other ground cover material, and within which no structure or building shall be authorized except a wall or fence which meets the requirements of this Chapter.

**BUILDING** - any covered structure that is permanently affixed to the land.

**BUILDING LINE** - a line which designates the minimum distance that a building must be erected from a street right-of-way line. Such distance shall be measured at right angles from the front street right-of-way which abuts the property upon which said building is located and be parallel to said right-of-way line. The building line shall not include steps.

**BUILDING AREA** - the area of the lot within the building lines, bounded by the required yards; where there is no required yard, then bounded by the lot line.

**BUSINESS AND PROFESSIONAL OFFICE** - the office of an engineer, doctor, dentist, attorney, real estate broker, insurance broker, architect, or other similar professional person; and any office used primarily for accounting, correspondence, research, editing or administration.

**CHURCH/PLACE OF WORSHIP** - a permanent building for worship as the principal structure on a property which may also contain accessory uses such

ZONING

as education buildings, convent, monastery, parish hall, minister's home and parking areas.

CLEAR SIGHT TRIANGLE - the unobstructed sight along both roads or driveways at an intersection for distances sufficient to allow the operators or vehicles approaching simultaneously to see each other in time to prevent a collision. The minimum sight triangle may vary according to type of street and speed limit. However, minimum requirements shall be one hundred fifty (150) feet in both directions along arterial streets and seventy-five (75) feet in both directions on collector and local streets. Sight distance along the street shall be measured at the height of the driver's eye, which is assumed to be two and three-quarter (2.75) feet above the road surface.

COMMERCIAL - engaging in a business, enterprise, activity, or other undertaking for profit.

COMMON OPEN SPACE - a parcel or parcels of land or area of water, or a combination of land and water within a development site and designated and intended for the use and enjoyment of residents of the development. Common open space shall not include streets, off-street parking areas, and areas set aside for public facilities.

CONDITIONAL USE - a use permitted in a particular zoning district by the Borough Council pursuant to the provisions of this Chapter and Article VI of the Pennsylvania Municipalities Planning Code, 53 P.S. §10601 et seq. [Ord. 2-97]

CORNER LOT - see "lot, corner."

COUNCIL - Rochester Borough Council.

COURT - an open, unoccupied, uncovered space partially or wholly surrounded by the walls of a building or structure.

COVERAGE - see "lot, coverage."

DAY - days shall be measured by calendar days wherever a time period is stipulated in this Chapter.

DAY CARE CENTER - a facility providing care, supervision and/or instruction for preschool age children, and licensed to operate as such by the Commonwealth Department of Education.

DECISION - final adjudication of any board or other body granted jurisdiction under any land use ordinance or this Chapter to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the court of common pleas of the county and judicial district wherein the Borough lies. [Ord. 2-97]

DEVELOPMENT - any improvements to real estate including, but not limited to, the erection, construction or placement of a structure or building, utilities, streets, parking and loading areas or other paving, filling,

grading, excavation, mining, drilling or dredging operations, or the placement of mobilehomes.

DEVELOPER - any landowner, agent of such landowner, or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development. [Ord. 2-97]

DEVELOPMENT PLAN - the provisions for development including a planned residential development, a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities. The phrase "provisions of development plan" when used in this Chapter shall mean the written and graphic materials referred to in this definition. [Ord. 2-97]

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

A. The Borough Council;

B. The Zoning Hearing Board; or,

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

[Ord. 2-97]

DWELLING UNIT - any building or portion thereof constituting a separate independent housekeeping establishment for one (1) or more persons, and containing independent cooking, sanitary and sleeping facilities. It shall not be deemed to include hotels, boarding or rooming houses, institutional facilities and residence clubs.

A. MULTIFAMILY DWELLING - a residential building containing three (3) or more separate dwelling units.

B. SINGLE-FAMILY DWELLING - a detached residential dwelling unit, other than a mobile home, occupied by only one (1) family.

C. TWO FAMILY DWELLING - a detached building occupied by only two (2) families, independent of each other, with the two (2) units either attached side by side or one (1) above the other.

DWELLING UNIT DENSITY - the maximum number of dwelling units authorized per acre.

EATING AND DRINKING ESTABLISHMENT - a place for the sale and consumption of food and/or beverages to the general public, which includes restaurants, bars, taverns and similar establishments.

## ZONING

**ENGINEER** - a professional engineer licensed as such in the Commonwealth of Pennsylvania, and duly appointed as the engineer for Rochester Borough.

**ESSENTIAL SERVICE** - underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems and their required buildings, owned and operated by a public utility (licensed by the Pennsylvania Public Utility Commission), municipal or other governmental agency. Essential services do not include public or private incinerators, land fills or similar waste disposal facilities.

**FAMILY** - one (1) or more persons occupying a dwelling unit and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, group residence, personal care boarding home, club, fraternity or hotel.

**FENCE** - any structure constructed of wood, metal, wire, mesh or masonry erected for the purpose of screening one (1) property from another to assure privacy, protection or confinement of the property. The term "fence" shall include screening walls and hedges exceeding thirty (30) inches in height. Decorative "split-rail" fencing that does not obstruct vision shall not be included under this definition.

**FLOOR AREA** - the sum of the gross horizontal areas of the stories of a building from the exterior faces of the exterior walls. For the purposes of determining permissible size and off-street parking and loading requirements, "floor area" shall include: (1) floor space devoted to the principal use of the premises, including accessory storage areas located within selling or working spaces such as counters, racks, or closets; (2) any basement floor area devoted to retailing activities; and (3) floor area devoted to the production or processing of goods or to business or professional offices; for this purpose, floor area shall not include space devoted primarily to storage purposes (except as noted above), off-street parking or loading facilities, including aisles, ramps and maneuvering space, or basement floor area other than area devoted to retailing activities, the production or processing of goods, or business or professional offices.

**FLOODPLAIN** - a relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation; and/or an area subject to the unusual and rapid accumulation or runoff of surface waters. The boundaries of the one hundred (100) year flood plains are delineated on the Borough Flood Insurance Study.

**FLOODPLAIN DISTRICT** - all areas subject to inundation by waters of the one hundred (100) year flood. The basis for delineation of this district shall be the same as designated in the Rochester Flood Insurance Study, dated August, 1979, as prepared by the Federal Insurance Administration, and implemented by the Rochester Borough Flood Protection Ordinance (Ord. 994, 12/17/1979).

**FRONT YARD** - see "yard, front."

**GARAGE** - a fully enclosed building for the storage of motor vehicles, not including businesses in which fuel is sold, or repair or other service is performed.

**GARDEN APARTMENT** - a dwelling unit which is part of a multifamily structure, usually not exceeding three (3) stories in height, designed around courts or common open spaces, frequently having private balconies or patios.

**GROUP RESIDENCE** - a facility located in a residential area which provides room, board and specialized services to eight (8) or fewer unrelated persons, such as children (under 18 years of age), handicapped or elderly (over 60 years of age) individuals. These individuals must be living together as a single housekeeping unit with one (1) or more qualified adults providing twenty-four (24) hour supervision. The group residence may be operated by a governmental agency, certified agent or nonprofit corporation. This category shall not include facilities operated by or under the jurisdiction of any government bureau of corrections or similar institution.

**HEIGHT, MAXIMUM** - the vertical distance measured from the average elevation of the proposed finished grades, immediately adjacent to the front of the building to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the mean height between eaves and ridges for gable, hip and gambrel roofs. Chimneys, flues, stacks, fire escapes, gas holders, elevator penthouses, ventilators, water towers and tanks, steeples, bell towers, broadcasting and electrical transmission towers and similar structures shall not be included in calculating maximum height.

**HOME OCCUPATION** - an occupation conducted in a dwelling unit solely by members of the family residing on the premises, provided such occupation shall be clearly incidental and subordinate to the unit's residential purpose and shall be conducted entirely within the principal residential structure.

**HOSPITAL** - a facility providing a short-term room, board and specialized surgical/medical care and supervision on a twenty-four (24) hour per day basis by qualified personnel in accordance with Commonwealth laws and regulations.

**HOTEL** - a multi-story building or group of buildings containing rooms which provide sleeping accommodations for transient guests on a daily or weekly basis, dining and banquet/meeting facilities. The term shall include motor lodge, tourist court, inn and similar uses.

**LANDOWNER** - the legal or beneficial owner of land including the holder of an option or contract to purchase; a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having proprietary interest in the land, shall be deemed to be a landowner.

**LOADING SPACE, OFF-STREET** - space conveniently located, accessible and properly designed for the temporary use by vehicles making bulk pick-ups or deliveries of merchandise or materials.

**LODGING HOUSE** - any building, other than a rooming house or a hotel, all or part of which is used or held out to be a place where temporary living

ZONING

quarters are provided regularly for pay to two (2) or more unrelated persons.  
[Ord.-1-89]

LOT - a designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit. [Ord. 2-97]

LOT AREA - the total area within the boundary of a lot, but excluding the area of land bounded by any front lot line, the center line of a street right-of-way on which it fronts and the side lot lines intersecting the front lot line at its end extended to the center line of the street right-of-way.

LOT AREA PER DWELLING UNIT - the quotient obtained by dividing the total lot area by the total number of dwelling units to be located on such lot.

LOT, CORNER - a lot located at the intersection of two (2) or more streets. A lot abutting on a curved lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.

LOT COVERAGE - the percentage of lot which when viewed directly from above would be covered by a structure or structures, or any part thereof, excluding projecting roof eaves.

LOT DEPTH - the distance between midpoints of the front lot lines and the rear lot line.

LOT WIDTH - the distance between the side lot lines measured at right angles to the lot depth at the established front building line.

LOT LINE, FRONT - a street right-of-way line forming the boundary of a lot.

LOT LINE, REAR - the lot line that is most distant from, and is, or is most nearly parallel to, the front lot lines. If a rear lot line is less than fifteen (15) feet long, or if the lot comes to a point at the rear, the rear lot lines shall be line at fifteen (15) feet long; lying wholly within the lot, parallel to the front line. If a lot has two (2) or more front lot lines, the owner or developer shall designate the boundary which is to be the rear yard line.

LOT LINE, SIDE - a lot line which is neither a front lot line nor a rear lot line.

LOT OF RECORD - a lot which is part of subdivision recorded in the office of the Recorder of Deeds of Beaver County or a lot or parcel described by metes and bounds, the description of which has been so recorded.

MIXED OCCUPANCY - the conduct or carrying on of two (2) or more uses in one (1) building.

MOBILEHOME - a transportable, single-family dwelling intended for permanent occupancy, contained in one (1) unit or in two (2) or more units designed to be joined into one (1) integral unit capable of again being



separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation. [Ord. 2-97]

MOBILEHOME LOT - a parcel of land in a mobilehome park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobilehome. [Ord. 2-97]

MOBILEHOME PARK - a parcel or contiguous parcels of land which has been so designated and improved that it contains two (2) or more mobilehome lots for the placement thereon of mobilehomes. [Ord. 2-97]

MOBILE HOME PARK DEVELOPER - any person, firm or corporation who undertakes the development of a mobile home park and who is the owner or lessee of the land to be developed.

MOBILE HOME PARK SERVICE AND RECREATIONAL BUILDING - a structure housing any operational office, recreational park maintenance and other facilities built for the operation of the mobile home park.

MUNICIPAL AUTHORITY - a body politic and corporate created pursuant to the Act of May 2, 1945 (P.L. 382, No. 164), known as the "Municipalities Authority Act of 1945." [Ord. 2-97]

MULTIFAMILY, MULTI-STORY BUILDING - structure of over three (3) stories, but not exceeding the height limitation for the district in which it is located, with an elevator as well as stairs to all levels. All units must be accessible through an entrance hall shared with other dwelling units.

NONCONFORMING LOT - a lot the area or dimension of which was lawful prior to the adoption or amendment of this Chapter, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption or amendment. [Ord. 2-97]

NONCONFORMING STRUCTURE - a structure or part of a structure manifestly not designed to comply with the use or extent of use provisions of this Chapter or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of this Chapter or amendment or prior to the application of this Chapter or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs. [Ord. 2-97]

NONCONFORMING USE - a use, whether of land or of structure, which does not comply with the applicable use provisions in this Chapter or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this Chapter or amendment, or prior to the application of this Chapter or amendment to its location by reason of annexation. [Ord. 2-97]

NURSING OR CONVALESCENT HOME - an institution for the care of children, the aged or infirm, but not including facilities for surgical care or institutions for the care and treatment of mental illness, alcoholism, or narcotics addiction.

## ZONING

OCCUPANCY PERMIT - a permit issued by the Zoning Officer before the occupancy of any new or remodeled building, use of land, or change of use, which certifies that all the requirements of this Chapter and all other applicable ordinances have been met.

PARKING SPACE - an off-street space available for the parking of a motor vehicle and which has a hard all-weather surface and is at least an area nine (9) feet wide by eighteen (18) feet long, exclusive of passageways and driveways appurtenant thereto and giving access thereto.

PERIMETER - the outer boundary of a development site or area.

PERSONAL CARE BOARDING HOME - any premises, operated for consideration or not, in which food, shelter and personal assistance or supervision are provided for on a twenty-four (24) hour per day basis for a minimum of three (3) persons and a maximum of eight (8) persons who require assistance or supervision in such matters as dressing, bathing, diet or medication prescribed for self administration, but do not require hospitalization or care in a skilled nursing facility. These individuals may be children, handicapped, elderly, or otherwise in need of specialized supervision and care. This category of facility requires licensing, certification or supervision by the Pennsylvania Department of Public Welfare.

PLANNED RESIDENTIAL DEVELOPMENT - an area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, or combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling, or use, density or intensity, lot coverage and required open space to the regulations established in any one district created, from time to time, under the provisions of this Chapter. [Ord. 2-97]

PLANNING COMMISSION - the Rochester Borough Planning Commission.

PORCH - an open roofed or enclosed exterior appendage to a main or accessory structure, projecting from the front, side or rear walls of the structure. For purposes of this Part, porches shall include structures and home additions commonly referred to as patios, sunrooms, sunporches, decks and similar structures or construction. Stoops or slabs which extend beyond the front, side and rear walls of a main structure a distance of more than four (4) feet and/or exceed the length of six (6) feet along said front, side or rear walls are deemed to be porches by definition. Permanent or temporary awnings which extend beyond five (5) feet from the front, side or rear walls of the main structure, or which are partially or wholly supported by posts, poles, spires or similar construction or structures set beyond the walls of the main structure are also deemed to be porches by definition.

PRINCIPAL BUILDING - a building or buildings in which is conducted the main or principal use of the lot on which the building is situated.

PRINCIPAL USE - the main use of land or structures as distinguished from a subordinate or accessory use.

PRIVATE - of or pertaining to any building, structure, use or activity limited to members of an organization or to other persons specifically invited or permitted where no advertisement or inducement has been made to the general public.

PRIVATE CLUB - an association organized and operated not for profit but for persons who are bonafide members playing annual dues, and which owns, hires, or leases premises, the use of which premises is restricted to such members and their guests. Food, meals and beverages may be served on such premises, provided adequate dining room space and kitchen facilities are available. Alcoholic beverages may be sold or served to members and their guests, provided such service is secondary and incidental to the promotion of some other services and further provided that such sale or service of alcoholic beverages is in compliance with all applicable Federal, State, County and local laws.

PUBLIC - of or pertaining to any building, structure, use or activity belonging to, or affecting, any duly authorized government body.

PUBLIC GROUNDS - includes:

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

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

C. Publicly owned or operated scenic and historic sites.

[Ord. 2-97]

PUBLIC HEARING - a formal meeting held pursuant to public notice by the Borough Council or Planning Commission, intended to inform and obtain public comment, prior to taking action in accordance with this Chapter. [Ord. 2-97]

PUBLIC MEETING - a forum held pursuant to notice under the Act of July 3, 1986 (P.L. 388, No. 84), known as the "Sunshine Act," 53 P.S. §§271 et seq. [Ord. 2-97]

PUBLIC NOTICE - notice published once each week for two (2) successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing. [Ord. 2-97]

PUBLIC SERVICE FACILITY - land or a building or structure and its equipment erected and used for the purpose of facilitating service to the public, by a governmental agency or publicly franchised or regulated corporation.

REPORT - any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the

## ZONING

recipient of such report in the rendering of any decision or determination. All reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to any proceeding upon request, and copies thereof shall be provided at cost of reproduction. [Ord. 2-97]

**RESIDENTIAL USE** - a use whose primary function is to serve as living quarters in an urban setting, and excludes such activities as the keeping of livestock or fowl, activities resulting in noise which constitutes a nuisance in an residential area and activities which involve the storage, visible from off the lot, of motor vehicle parts, machinery or parts, junk or scrap metals.

**ROOMING HOUSE** - any building other than a lodging house or hotel, all or part of which is used or held out to be a place where two (2) or more unrelated persons rent or pay for a room without food preparation or dining accommodations provided for therein. This definition contemplates that the roomer(s) eats or takes his, her or their meals otherwise. [Ord. 1-89]

**SCHOOL** - a public or private institution dedicated to the teaching of knowledge and skills to enrolled students. Day care centers and other similar use shall not be considered schools.

**SCREEN** - decorative fencing or evergreen vegetation maintained for the purpose of concealing from view the area behind such structures or evergreen vegetation.

**SIGN** - a structure that is arranged, intended, designed or used to advertise, announce or direct; or any device, illustration, description or identification posted, painted, or placed in some fashion on a building, structure or any surface for such a purpose. For the purpose of removal, signs shall also include all sign structures.

A. **FREE STANDING SIGN** - a sign erected on a free-standing frame, mast or poles and not attached to any building.

B. **OUTDOOR ADVERTISING SIGN** - see "billboard."

C. **WALL SIGN** - a sign attached to or erected against a wall of a building, with the face horizontally parallel to the building wall.

**SIGN AREA** - the area defined by the frame or edge of a sign. Where there is no frame or edge to the sign, the area shall be defined by a projected, enclosed, four (4) sided (straight sides) geometric shape which most closely outlines the copy or letters of the said sign.

**SIGN, TEMPORARY** - a sign which offers the premises for sale, rent or development; or advertises the services of professionals or building trades during sale, construction or alteration of the premises upon which the sign is located.

SINGLE HOUSEKEEPING UNIT - the use or occupancy of a building by a family, as distinguished from individuals or groups of individuals occupying a boarding house, lodging house, personal care boarding home, club, fraternity or hotel. Relevant factors in determining the use or occupancy of a single housekeeping unit shall include, but not be limited to:

- A. Whether each resident therein has access to the entire premises.
- B. Whether all residents therein cook and dine together.
- C. Whether all residents therein attend social functions together.
- D. Whether all residents therein celebrate special occasions and/or holidays together.
- E. Whether residents therein share home activities and benefits, such as cleaning, yard work, automobiles and appliances.

[Ord. 1-89]

SITE PLAN - a plan of a proposed development or use on which is shown topography, location of all buildings, structures, roads, right-of-ways, boundaries, all essential bearings and dimensions and any other information deemed necessary by the Borough or prescribed by this Chapter.

SPECIAL EXCEPTION - a use permitted in a particular zoning district pursuant to the provisions of this Chapter and Articles VI and IX of the Pennsylvania Municipalities Planning Code, 53 P.S. §§10601 et seq., 10901 et seq. [Ord. 2-97]

STEPS - a construction or series of constructions placed for a foot support to effectuate the ascending or descending of a person or persons from one (1) level of elevation to another.

STORY - that part of a building between the surface of any floor and the next floor, ceiling or roof above it. A basement shall be counted as a story if it averages more than five (5) feet above grade.

STREET - includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct or any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private. [Ord. 2-97]

STREET GRADE - the officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street shall be taken as the street grade.

STREET LINE - the line defining the edge of the legal width of a dedicated street right-of-way.

STREET TYPE - streets may be classified according to the following:

ZONING

A. STREET, ARTERIAL - streets designed to carry high volumes of traffic from one (1) area of the community to another or to link one (1) community with another.

B. STREET, COLLECTOR - streets designed to collect traffic from local streets and then to convey it to the major arterials.

C. STREET, LOCAL - streets designed to serve only the traffic needs of and provide access to a limited area or neighborhood.

STRUCTURE - any manmade object having an ascertainable stationary location on or in land or water, whether or not affixed to the land. [Ord. 2-97]

SWIMMING POOL - a body of water in an artificial or semi-artificial receptacle or other container, whether located in or out of doors, used as a recreational facility for swimming, bathing or wading and having a depth of over twenty-four (24) inches. A swimming pool shall be deemed to include all buildings, equipment and appurtenances incidental to such a pool.

TAVERN - a business selling food and alcoholic beverages for consumption on the premises and duly licensed by the Commonwealth of Pennsylvania.

TOWN HOUSE DWELLINGS - a structure consisting of a series of three (3) to six (6) attached dwelling units, separated from one another by continuous vertical walls without opening from basement to roof.

TRAILER - a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes having a body width not exceeding eight (8) feet.

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

VARIANCE - relief granted pursuant to the provisions of this Chapter and Articles VI and IX of the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 et seq. [Ord. 2-97]

VIDEO GAME, AMUSEMENT ARCADE - a business, or portion thereof, having on its premises for use by the public, five (5) or more video or electro-mechanical devices operated by inserting a coin or token.

YARD - an open space on a lot which is unoccupied and unobstructed from the ground upward.

YARD, FRONT - a yard extending along the full length of a front lot line and back to the required building line. On a corner lot, each yard that abuts a front lot line shall be considered a front yard.

YARD, REAR - the required open space extending from the rear of the main building to the rear lot line across the entire width of the lot.

YARD, SIDE - the required open space between the side of any building and the side lot line, extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

ZONING HEARING BOARD - the Zoning Hearing Board of Rochester Borough.

ZONING OFFICER - the duly designated official authorized to administer and enforce this Chapter.

ZONING PERMIT - a permit, issued by the Zoning Officer, stating that the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements of this Chapter for the Zoning district in which it is located or is to be located.

(Ord. 11-84, 8/21/1984, §2.2; as amended by Ord. 1-89, 4/30/1989, §1; and by Ord. 2-97, 7/28/1997)





Part 3

Zoning District Regulations

§301. Creation of Zoning Districts. The Borough of Rochester is hereby divided into the following zoning districts:

- A. R-1 - Single-Family Residential District.
- B. R-2 - Medium Density Residential District.
- C. R-3 - High Density Residential District.
- D. M - Mixed Use District.
- E. C - Commercial District.
- F. S - Special Use District.

(Ord. 11-84, 8/21/1984, §3.1)

§302. Zoning District Map and Boundaries.

1. The boundaries of the various zoning districts are hereby established on the map entitled "Official Zoning Map of the Borough of Rochester," on file in the office of the Borough Manager. This map, with all explanatory matter thereon, is hereby made a part of this Chapter. The Official Zoning Map shall be dated and shall carry the signature of the President of Council and the Borough Manager certifying that it is the true map adopted by the Council, and the map shall be sealed with the official Borough Seal. All amendments shall be identified on the map and similarly certified.

2. The boundaries between districts are, unless otherwise indicated, either the center line of streets or of property lines or other physical boundaries. Where streets, property lines or other physical boundaries and delineations are not applicable, boundaries shall be determined by the scale shown on the Official Zoning Map.

3. In the event a dispute arises over zoning district boundary lines, the Zoning Hearing Board shall interpret the district boundaries.

4. In the event that a street, alley or other way shown on the Official Zoning Map is vacated, the property formally in said street right-of-way shall be included within the zoning district of the adjoining property on either side of said vacated street or way. Where said street forms a zoning district boundary, the new district boundary shall be the new property lines created by the former center line of said vacated street.

(Ord. 11-84, 8/21/1984, §3.2)

§303. R-1 Single-family Residential District. In R-1 Residence Districts the following regulations shall apply:

A. Permitted Uses.

- (1) Single-family detached dwellings.
- (2) Residential Accessory Uses. The term "accessory use" shall not include business, but shall include: (a) a private garage, (b) noncommercial nursery or greenhouse.
- (3) Home occupations, as defined in §410 of this Chapter.
- (4) Signs, as permitted in §407 of this Chapter.

B. Conditional Uses.

- (1) Schools as defined in §604(H) of this Chapter.
- (2) Churches or places of worship as defined in §604(H) of this Chapter.
- (3) Public recreational facilities and other public buildings and/or uses as defined in §604(I) of this Chapter.
- (4) In-home day care facilities, providing care for a maximum of four (4) children. Such facilities must also comply with conditions attached to home occupations (§410).

C. Lot and Area Requirements.

- (1) Minimum Lot Area.
  - (a) Single-family Dwelling. Five thousand (5,000) square feet per dwelling.
  - (b) School, Church or Place of Worship. Ten thousand square feet per use.
- (2) Minimum Yard Requirements.
  - (a) Front Yard. Twenty (20) feet.
  - (b) Side Yard.
    - 1) Residential. Five (5) feet for each side yard. On a corner lot the side yard abutting a public street shall be the same depth as the front yard.
    - 2) Other Uses. Fifteen (15) feet for each side yard for any principal structure or use.
  - (c) Rear.

- 1) Principal Structures of Use. Twenty-five (25) feet.
- 2) Accessory Structure. Five (5) feet.
- (3) Maximum Lot Coverage. Sixty (60) percent for all uses.
- (4) Maximum Height.
  - (a) Principal Structures. Thirty-five (35) feet.
  - (b) Accessory Structures. Fifteen (15) feet.

D. Off-Street Parking Requirements. As specified in §406 of this Chapter.

(Ord. 11-84, 8/21/1984, §3.3)

§304. R-2 Two Family Residential District. In R-2 Residential Districts, the following regulations shall apply:

A. Permitted Uses.

- (1) Single-family detached dwellings.
- (2) Two family detached dwellings.
- (3) Planned residential development, as defined in Part 5 of this Chapter.
- (4) Residential accessory uses as permitted in the R-1 District.
- (5) Home occupations, as defined in §410 of this Chapter.
- (6) Signs, as permitted in §407 of this Chapter.
- (7) Essential services and public service facilities, as defined by this Chapter.

B. Conditional Uses.

- (1) Schools as defined in §604(H) of this Chapter.
- (2) Churches or places of worship as defined in §604(H) of this Chapter.
- (3) Conversion of existing single-family residences to two (2) family structures provided they meet the following requirements:
  - (a) Each living unit provides a minimum of five hundred (500) square feet of habitable living space.

(b) Each living unit shall contain one (1) complete bathroom and three (3) habitable rooms, at least one (1) of which shall be a bedroom.

(c) Separate and private, cooking and dining accommodations are provided for each unit.

(d) Fire and safety provisions are certified to meet or surpass all Borough codes and ordinances.

(e) The required off-street parking spaces (one (1) per unit) can be provided. Required parking may be provided in the rear yard area, provided a minimum three (3) foot landscaped or planted set back is maintained along the rear property line.

(f) Any alteration of the structure for purposes of conversion do not make the structure nonconforming (or any more nonconforming) as to yard, height and lot coverage for a two (2) family structure.

(4) Public recreational facilities and other public buildings and/or uses defined in §604(I) of this Chapter.

(5) In-home day care facilities, providing care for a maximum four (4) children. Such facilities must also comply with conditions attached to home occupations (§410).

C. Lot and Area Requirements.

(1) Minimum Lot Area.

(a) Single-Family Dwelling. Five thousand (5,000) square feet per dwelling.

(b) Two Family Dwelling. Two thousand five hundred (2,500) square feet per unit.

(c) School, Church or Place of Worship. Ten thousand (10,000) square feet per use.

(2) Minimum Yard Requirements.

(a) Front Yard. Twenty (20) feet.

(b) Side Yards.

1) Residential. Two (2) side yards totaling ten (10) feet, but not less than three (3) feet. On a corner lot, a side yard abutting a street shall be at least equal to the front yard of the rear abutting lot which fronts on that street, but in no event less than ten (10) feet.

2) Other Uses. Fifteen (15) feet for each side yard for any principal structure or use.

(c) Rear Yard.

1) Principal Structure or Use. Twenty-five (25) feet.

2) Accessory Structure. Three (3) feet.

(3) Maximum Lot Coverage. Sixty (60) percent for dwellings, seventy (70) percent for all other uses.

(4) Maximum Height.

(a) Principal Structures. Thirty-five (35) feet.

(b) Accessory Structures. Fifteen (15) feet.

D. Off-Street Parking Requirements. As specified in §406 of this Chapter.

E. Standards for Planned Residential Developments. As specified in Part 5 of this Chapter.

(Ord. 11-84, 8/21/1984, §3.4)

§305. R-3 Multifamily Residential District. In R-3 Residence Districts the following regulations shall apply:

A. Permitted Uses.

(1) Single-family detached dwellings.

(2) Two (2) family detached dwellings.

(3) Multifamily dwellings, not to exceed four (4) stories, town houses and garden apartments.

(4) Planned residential developments, as defined in Part 5 of this Chapter.

(5) Residential accessory uses as permitted in the R-1 District.

(6) Home occupations, as defined in §410 of this Chapter.

(7) Signs, as permitted in §407 of this Chapter.

(8) Essential services and public service facilities, as defined by this Chapter.

B. Conditional Uses.

- (1) Schools as defined in §604(H) of this Chapter.
- (2) Churches or places of worship as defined in §604(H) of this Chapter.
- (3) Mobile home parks as defined in §604(C) of this Chapter.
- (4) Conversion of existing single or two (2) family dwellings to not more than four (4) multifamily units provided they meet the following requirements:
  - (a) Each living unit provides a minimum of five hundred (500) square feet or habitable living space.
  - (b) Each living unit shall contain one (1) complete bathroom and three (3) habitable rooms, at least one (1) of which shall be a bedroom.
  - (c) Each unit must provide cooking and dining accommodations for each unit.
  - (d) Fire and safety provisions are certified to meet or surpass all Borough codes and ordinances.
  - (e) The required off-street parking spaces (one (1) space per unit) can be provided. Required parking may be provided in the rear yard area, provided a minimum three (3) foot landscaped or planted set back is maintained along the rear property line.
  - (f) Any alterations of the structure for purposes of conversion do not make the structure nonconforming (or any more nonconforming) as to yard, height and lot coverage for a two (2) family structure.
- (5) Day care centers as defined by §604(B) of this Chapter.
- (6) Nursing or convalescent homes as defined in §604(J) of this Chapter.
- (7) Group residences and personal care boarding homes, as defined in §604(A) of this Chapter.
- (8) Public recreation facilities and other public buildings and/or uses as defined in §604(I) of this Chapter.
- (9) In-home day care facilities, providing care for a maximum of four (4) children. Such facilities must also comply with conditions attached to home occupations (§410).

C. Lot and Area Requirements.

- (1) Minimum Lot Area.

(a) Single-Family Dwelling. Five thousand (5,000) square feet per dwelling.

(b) Two Family. Two thousand five hundred (2,500) square feet per unit.

(c) Multifamily Dwelling. One thousand five hundred (1,500) square feet per unit. No more than twenty-five (25) units per acre shall be permitted.

(d) Group Residence, Personal Care Boarding Home. Six thousand (6,000) square feet.

(e) School, Church, Place of Worship, Nursing Homes, Convalescent Homes, Day Care Centers. Ten thousand (10,000) square feet.

(2) Minimum Yard Requirements.

(a) Front Yard. Twenty (20) feet.

(b) Side Yards.

1) Residential (other than multifamily). Two (2) side yards totaling ten (10) feet, but none less than three (3) feet. On a corner lot, a side yard abutting a street shall be at least equal to the front yard of the rear abutting lot which fronts on that street, but in no event less than ten (10) feet.

2) Other Uses. Fifteen (15) feet for each side yard for any principal structure or use.

(c) Rear Yard.

1) Principal Structure or Use. Twenty-five (25) feet.

2) Accessory Structure. Three (3) feet.

(d) Yards for Multifamily Dwellings. No specific front, side or rear yard minimum. However no principal structure or use may be closer than fifteen (15) feet to any other property line or street right-of-way.

(3) Maximum Lot Coverage. Sixty (60) percent for dwellings; seventy (70) percent for multifamily and other uses.

(4) Maximum Height.

(a) Single, Two Family and Town House Dwellings. Thirty-five (35) feet.

(b) Multifamily Dwellings. Forty-five (45) feet or no more than four (4) stories which ever is less.

D. Off-Street Parking Requirements. As specified in §406 of this Chapter.

E. Standards for Planned Residential Developments. As specified in Part 5 of this Chapter.

(Ord. 11-84, 8/21/1984, §3.5)

§306. M - Mixed Use District. In the M-Mixed Use District the following regulations shall apply:

A. Permitted Uses.

(1) Single-family detached dwellings.

(2) Two family detached dwellings.

(3) Multifamily dwellings, not to exceed six (6) stories, town houses and garden apartments.

(4) Planned development, as defined in Part 5 of this Chapter.

(5) Retail sales or service establishments including:

(a) Sale of nonalcoholic beverages, books, confections, drugs, electrical appliances, flowers, food, hardware, notion, novelties, periodicals, shoes, sundries, household articles, tobacco and wearing apparel.

(b) Barber shop or beauty parlor.

(c) Clothes pressing, cleaning, tailoring and shoe repair.

(d) Banks and financial institutions.

(e) Professional offices.

(f) Conventional restaurants which may serve alcoholic beverages for on premises consumption.

(g) Lodges, clubs and meeting halls which may serve alcoholic beverages for on premises consumption.

(h) Car wash.

(6) Funeral home.



- (7) Residential accessory uses as permitted in the R-1 District.
- (8) Home occupations, as defined in §410 of this Chapter.
- (9) Signs, as permitted in §407 of this Chapter.
- (10) Essential services and public service facilities, as defined by this Part.

B. Conditional Uses.

- (1) Schools as defined in §604(H) of this Chapter.
- (2) Churches or places of worship as defined in §604(I) of this Chapter.
- (3) Mobile home parks as defined in §604(C) of this Chapter.
- (4) Conversion of existing single or two (2) family dwellings to not more than four (4) multifamily units provided they meet the following requirements:
  - (a) Each living unit provides a minimum of five hundred (500) square feet of habitable living space.
  - (b) Each living unit shall contain one (1) complete bathroom and three (3) habitable rooms, at least one of which shall be a bedroom.
  - (c) Separate and private cooking and dining accommodations are provided for each unit.
  - (d) Fire and safety provisions are certified to meet or surpass all Borough codes and ordinances.
  - (e) The required off-street parking spaces (one (1) space per unit) can be provided. Required parking may be provided in the rear yard area, provided a minimum three (3) foot landscaped or planted setback is maintained along the rear property line.
  - (f) Any alterations of the structure for purposes of conversion do not make the structure nonconforming (or any more conforming) as to yard, height and lot coverage for a two (2) family structure.
- (5) Day care centers as defined in §604(B) of this Chapter.
- (6) Nursing or convalescent homes as defined in §604(J) of this Chapter.
- (7) Group residences and personal care boarding homes, as defined in §604(A) of this Chapter.

(8) In-home day care facilities, providing care for a maximum of four (4) children. Such facilities must also comply with conditions attached to home occupations (§410).

(9) Fast food restaurants, provided they meet the following requirements:

(a) No fast food restaurant shall be located on a lot any part of which is less than two hundred fifty (250) feet from a lot where another fast food restaurant is located.

(b) No fast food restaurant shall be located on a lot any part of which is less than two hundred fifty (250) feet from a residential district or any school, church or library.

(c) The operators of a fast food restaurant are required to collect, daily, the litter from the fast food restaurant in all areas within one hundred (100) feet of the restaurant.

(d) There shall be a minimum of five (5) off-street parking spaces, plus one (1) space for each one hundred (100) square feet of gross floor area.

(10) Automobile service stations, automotive repair facilities, automobile sales and car washes as defined in §§604(D) and 604(E) of this Chapter.

(11) Light industrial, including production, processing, testing, repair or servicing of textile products, furniture and fixtures, paper and allied products, printing and publishing, rubber, plastics, metals and stone, leather and leather products, transportation equipment, signs and advertising displays, wood and lumber.

(12) Hospitals as defined in §604(J) of this Chapter.

(13) Flea markets, farmer's markets, and temporary outdoor amusement fairs as defined in §604(L) of this Chapter.

(14) Any production, fabricating, processing, cleaning, servicing, repair, testing or storage of goods or products provided the use conforms to the performance standards in §401 of this Chapter.

C. Lot and Land Area Regulations.

(1) Minimum Lot Area.

(a) Single-Family Dwelling. Three thousand five hundred (3,500) feet.

(b) Two Family Dwelling. Three thousand five hundred (3,500) feet.

(c) Multifamily Dwelling. One thousand two hundred (1,200) square feet.

(d) Nonresidential Uses. No set minimum, however, lot area must be sufficient to meet all setback, lot coverage, off-street parking and loading and other applicable provisions of this Chapter.

(2) Minimum Front Yard.

(a) Residential. Ten (10) feet or an average of the setbacks of the structures abutting both sides of the property.

(b) Nonresidential. Same as the nearest abutting structures; if these setbacks vary, then the setback shall be the average setback of the abutting structures.

(3) Side Yard Requirements.

(a) Residential. Three (3) feet on each side, two (2) feet shall be added to each side yard for each building over four (4) stories.

(b) Nonresidential. Three (3) feet.

(4) Maximum Lot Coverage. None.

(5) Balconies. If provided, shall not extend into any required yard and shall not extend more than eight (8) feet from the face of any building.

(6) Maximum Height.

(a) Single-Family, Two-Family, Town houses. Thirty-five (35) feet.

(b) Multifamily and Nonresidential. Seventy-five (75) feet or maximum six (6) stories, whichever is less. Multi-story buildings over forty (40) feet must provide elevators. No habitable dwelling units shall be permitted over a sixty (60) foot average height.

D. Other Standards.

(1) Where an existing business proposes to expand, it shall be required to provide adequate off-street parking and loading areas for the entire use, based on gross area of both existing facilities and the proposed expansion.

(2) All nonresidential uses must meet the environmental performance standards outlined in §401 of this Chapter.

E. Off-Street Parking Requirements. As specified in §406 of this Chapter.

F. Standards for Planned Residential Developments. As specified in Part 5 of this Chapter.

(Ord. 11-84, 8/21/1984, §3.6)

§307. C-1 Community Business District. In the C-1 District the following regulations shall apply:

A. Permitted Uses.

(1) Retail sales or service establishments including:

(a) Sale of nonalcoholic beverages, books, confections, drugs, electrical appliances, flowers, food, hardware, notions, novelties, periodicals, shoes, sundries, household articles, tobacco and wearing apparel.

(b) Barber shop or beauty parlor.

(c) Clothes pressing, cleaning, tailoring and shoe repair.

(d) Banks and financial institutions.

(e) Professional offices.

(f) Conventional restaurants which may serve alcoholic beverages for on-premises consumption.

(g) Lodges, clubs and meeting halls which may serve alcoholic beverages for on premise consumption.

(h) Car wash.

(2) Personal service businesses including barber and beauty shops, laundry and dry cleaning, shoe repair and other types of personal service establishments.

(3) Financial institutions, insurance/real estate offices.

(4) Printing and copying.

(5) Computer and data processing centers (including retail).

(6) Private schools and day care centers.

(7) Private schools for dancing, music or similar art or craft institutions.

(8) Lodges, clubs and meeting halls which may serve alcoholic beverages for on premise consumption.

(9) Eating and drinking establishments which may serve alcoholic beverages for on premises consumption (excluding drive-in restaurants).

(10) Public facility, building or recreational areas.

(11) Customary accessory uses to any permitted use.

(12) Essential services and public service facilities as defined by this Chapter.

B. Conditional Uses.

(1) Multifamily dwellings, not to exceed six (6) stories, town houses and garden apartments.

(2) Hotels as defined in §604(B) of this Chapter.

(3) Commercial recreation uses, such as bowling, racquetball, exercise clubs.

(4) Automobile service stations, automotive repair facilities, automobile sales, and car washes as defined in §§604(D) and 604(E) of this Chapter.

(5) Theaters.

(6) Animal hospitals or veterinarian offices (excluding boarding facilities).

(7) Video game or amusement arcades, as defined in §604(F) of this Chapter.

(8) Drive-in restaurants - fast-food restaurants, provided they meet the following requirements.

(a) No fast food restaurant shall be located on a lot any part of which is less than two hundred fifty (250) feet from a lot where another fast food restaurant is located.

(b) No fast food restaurant shall be located on a lot any part of which is less than two hundred fifty (250) feet from a residential district or any school, church or library.

(c) The operators of a fast food restaurant are required to collect, daily, the litter from the fast food restaurant in all areas within one hundred (100) feet of their restaurant.

(d) There shall be a minimum of five (5) different parking spaces, plus one (1) space for each one hundred (100) square feet of gross floor area.

(9) Adult use business, as defined in §604(G) of this Chapter.

(10) Flea markets, farmer's markets and temporary outdoor amusement fairs in accordance with §604(C) of this Chapter.

(11) Retail alcoholic beverage sales in accordance with §604 of this Chapter.

C. Lot and Area Regulations.

(1) Minimum Lot Area. Two thousand five hundred (2,500) square feet.

(2) Minimum Yard Requirements. No required front or side yard. Rear yard shall be twenty (20) feet.

(3) Maximum Lot Coverage. None.

(4) Maximum Height. Seventy-five (75) feet or maximum six (6) stories, whichever is less. No habitable dwelling units shall be permitted over a sixty (60) foot average height. Multi-story buildings over forty (40) feet must provide elevators.

(5) Balconies. If provided, shall not extend more than eight (8) feet from the face of any building.

D. Off-Street Parking Requirements. As specified in §406 of this Chapter.

(Ord. 11-84, 8/21/1984, §3.7)

§308. S - Special Use District. In the S-District the following regulations shall apply:

A. Permitted Uses. Public or private recreational uses and related facilities, river oriented recreation and commercial uses adjacent to the rivers, such as marinas, boat docks, storage and launching facilities, fishing piers or areas, observation areas, specialty shops and similar uses.

B. Conditional Uses. Multifamily dwellings, not to exceed six (6) stories, town houses and garden apartments in accordance with §402(6) of this Chapter.

C. Lot and Area Regulations.

(1) Minimum Lot Area. Ten thousand (10,00) square feet.

(2) Minimum Yard Requirements. All yard and setback requirements for conditional usage will be established by Borough Council based upon the type of use proposed, site, access, and floodplain regulations.

(3) Maximum Lot Coverage. Total impervious surfaces shall not exceed fifty (50) percent of lot area.

(4) Maximum Height. Seventy-five (75) feet or maximum six (6) stories, whichever is less. No habitable dwelling units shall be permitted over a sixty (60) foot average height. Multi-story buildings over forty (40) feet must provide elevators.

(5) Balconies. If provided, shall not extend more than twelve (12) feet from the face of any building.

D. Off-Street Parking Requirements. As specified in §406 of this Chapter.

(Ord. 11-84, 8/21/1984, §3.8)





Part 4

General Use Standards

§401. Purpose. The regulations contained in this Part are intended to apply to all zoning districts, uses, structures or lots except as otherwise provided in this Chapter. These regulations are intended to clarify, enhance and direct property owners in complying with sound land use practices. (Ord. 11-84, 8/21/1984, §4.1)

§402. General Provisions.

1. Pending Building Permits. Nothing in this Chapter shall require any change in construction or use of any structure for which a building permit was lawfully issued prior to the effective date of this Chapter, or any amendment hereto, provided the construction has begun or a contract or contracts have been let pursuant to the permit issued prior to the effective date of this Chapter.

2. Principal Building. In residential districts, there shall be only one (1) principal building on each zoning lot.

3. Mixed Uses. Land, buildings and structures shall be designated and used only for authorized uses within respective zoning districts. Except where specifically authorized by this Chapter, multiple uses of land, buildings or structures are prohibited.

4. Dwelling in a Basement. No dwelling unit or units shall be contained in a basement or cellar of a traditional single-family residential structure.

5. Trash and Garbage Disposal Storage. In the R-3, M, C, and S Districts, any commercial, industrial or multifamily use shall screen exterior trash or garbage storage containers from a public street or adjacent property. Such screening may be of a solid fencing or suitable vegetative nature.

6. Flood Prone Areas. Development within areas determined to be flood prone shall be subject to the provisions of the Borough's Flood Protection Ordinance (Ord. 934) [Chapter 8]. Flood prone districts shall be an overlay to the underlying zoning districts shown on the official zoning map. No zoning use or occupancy permit shall be issued to any use or structure unless the required floodplain building permit has been obtained.

7. Stormwater Management.

A. Any landowner and any person engaged in the alteration or development of land which may effect stormwater runoff from the site shall implement such measures as are reasonably necessary to prevent injury to health, safety or other property. Such measures shall include such actions as are required:

(1) To insure that the maximum rate of stormwater runoff is no greater after development than prior to development activities.

(2) To manage the quantity, velocity and direction of resulting stormwater runoff in a manner which otherwise adequately protects health and property from possible injury.

B. The control measurers for an individual development or site shall be approved by the Borough Engineer.

(Ord. 11-84, 8/21/1984, §4.2)

§403. General Height Provisions and Exception.

1. Measurement of Height. The authorized height of buildings shall be measured in accordance with the definition of "height, maximum" in this Chapter.

2. Height Exception. Chimney, flues, smoke stacks, fire escapes, gas holders, elevator enclosures, ventilators, skylights, water tanks and similar roof top structures required to operate the building, as well as flag poles, television aerials, water towers and tanks, church spires and towers, electric transmission towers may exceed maximum height standards. No such object shall exceed a height of one hundred (100) feet, and the required side yards shall be increased one foot for each five (5) feet such object exceeds forty-five (45) feet.

(Ord. 11-84, 8/21/1984, §4.3)

§404. General Lot Area Provisions and Exceptions.

1. Lot Area. Any lot together with the required yards and open areas on it shall be equal to or exceed the minimum lot area established for the zoning district in which the lot is located.

2. Required Lot Area. Any portion of a lot which is recorded or otherwise reserved for future street purposes shall not be used as a factor in determining lot area per dwelling unit or yard dimensions.

3. Front Yard Exception. The front yard setback of a lot may be reduced to the average of the front yards of the two (2) abutting structures where the lot is situated between two (2) lots on which the principal structures have maintained a lesser setback since the enactment of this Chapter.

4. Unenclosed Porches. In any residential district, an unenclosed porch may be erected in a required front or rear yard, provided it does not extend more than ten (10) feet into a required yard and does not exceed fourteen (14) feet or one (1) story in height.

5. Projections into a Permitted Yard. A buttress, chimney, cornice, pier or pilaster, not projecting more than eighteen (18) inches from the wall

of a building, as well as unenclosed fire escapes, may project into a required yard.

(Ord. 11-84, 8/21/1984, §4.4)

§405. Accessory Uses.

1. Permitted Accessory Uses. A permitted accessory use must comply with the definition of "accessory use" contained in Part 2 of this Chapter. Permitted accessory uses shall include:

A. Garage, carport, shed or building for automobile storage, or storage of a boat, trailer, camper or domestic items.

B. Child's playhouse, garden house, gazebo and private greenhouse.

C. Private residential swimming pool or private recreational facility. In-ground pools shall require a building permit. A swimming pool shall be properly screened with minimum six (6) foot from ground level fencing and locking gate.

D. Civil defense shelter for not more than two (2) families.

E. Storage of merchandise normally carried in stock on the same lot with a permitted retail, service or business use, unless such storage is excluded by zoning district regulations.

F. Storage of goods used in or produced by manufacturing activities unless such storage is excluded by zoning district regulations.

G. Off-street motor vehicle parking areas, and loading and unloading facilities.

H. Signs as permitted in §407 of this Part.

I. Employee restaurants and cafeterias when located in a permitted business or manufacturing building.

2. Prohibited Accessory Uses.

A. Outdoor storage or overnight parking in a residence district of trucks (over ten thousand (10,000) pound gross vehicle weight), buses, campers, boats or other recreational vehicles, construction vehicles or equipment. Permits for temporary storage or parking must be secured from the Zoning Officer and shall not exceed ten (10) consecutive days.

B. Outdoor storage, except as specifically permitted by zoning district regulations.

C. Junk vehicles.

3. Location of Accessory Uses. Unless otherwise stipulated by this Chapter, the following standards shall apply:

A. R-1 District.

(1) Accessory uses, excluding signs permitted by this Chapter, shall not be located in a required front or side yard. However, a garage or carport attached to the main structure may extend into a required side yard, provided it is set back at least three (3) feet from the side lot line. On a corner lot, the minimum setback shall be five (5) feet.

(2) Accessory uses and structures may be located in a required rear yard provided they are set back at least five (5) feet from the rear lot line and shall maintain the same side yard as that required for the principal structure, unless otherwise permitted by this Chapter. Replacement of an existing accessory structure may be upon the present site as long as it lies within the property line.

B. R-2 and R-3 Districts.

(1) Locational requirements for accessory uses for front and side yards of single and two (2) family dwellings shall be the same as for R-1 District (§405(3)(A)), above.

(2) Accessory uses and structures may be located in a required rear yard provided they are set back at least three (3) feet from the rear lot line and shall maintain the same side yard as that required for the principal structure, unless otherwise permitted by this Chapter. Replacement of an existing accessory structure may be upon the present site as long as it lies within the property line.

(3) For new or converted multifamily dwellings and other uses, accessory uses, excluding permitted signs, shall not be permitted in a required front or side yard, except for an open air, off-street parking area which shall maintain a minimum five (5) foot landscaped setback from the street right-of-way and, if applicable, provide screening in accordance with §408 of this Chapter.

C. M, C and S Districts.

(1) Locational requirements for accessory uses for front and side yards of single and two (2) family dwellings in the M District shall be the same as for R-1 districts (§405(3)(A)(1) above).

(2) Accessory uses for other types of uses shall not be located in a required front yard, except for an off-street parking area, which shall maintain a minimum three (3) foot setback from the street right-of-way and, if applicable, provide screening in accordance with §408 of this Chapter.

(3) Accessory uses and structures may be located in a required rear yard provided they are setback at least three (3) feet from the rear lot line and shall maintain the same side yard as that required for the principal structure, unless otherwise permitted by this Chapter. Replacement of an existing accessory structure may be upon the present site as long as it lies within the property line.

D. Notwithstanding any other provision of this Chapter, no part of any accessory use shall be located closer than six (6) feet to any principal structure, unless it is attached to or forms a part of such principal structure. No accessory structure shall be located closer than three (3) feet to another accessory structure on an abutting property.

E. Accessory structures and uses shall otherwise comply with the bulk regulations applicable in the district in which they are located.

4. Use Limitations.

A. All accessory structures and uses shall comply with the use limitations applicable to the zoning district in which they are located.

B. No accessory structure shall be constructed and occupied on any lot prior to the time of the completion of the construction of the principal structure to which it is accessory.

5. Permit and Maintenance Requirements.

A. A zoning compliance permit must be obtained from the Borough Zoning Officer for any new, expanded or altered accessory use or structure. The owner is responsible for maintaining the accessory use/structure in safe condition in accordance with all applicable regulations.

B. If the Zoning Officer finds that an accessory structure is not being used for its intended purpose or not being maintained, the Zoning Officer shall give written notice to the owner to immediately repair or remove it within twenty (20) days from the receipt of the notice. In the event the owner fails to comply with the Zoning Officer's written notice, the owner shall be considered in violation of this Chapter and subject to all the penalties contained herein.

(Ord. 11-84, 8/21/1984, §4.5)

§406. Off-Street Parking Requirements.

1. Application. In any zoning district, all structures built and all uses established hereafter shall provide off-street parking areas in accordance with this Chapter. In addition, when an existing structure or use is expanded, parking spaces for the area or capacity of such expansion shall be required in accordance with this Chapter. Borough Council may waive or

vary off-street parking requirements for any conditional use as part of the conditional use approval.

2. General Requirements.

A. Required off-street parking facilities shall be solely for the parking of motor vehicles in operating condition of residents, patrons or employees of such use.

B. Each required off-street parking space shall open directly upon an aisle driveway or street of such width and design as to provide safe and efficient means of vehicular access to such parking space. This provision does not apply to dwelling units where parking in a driveway is counted as part of the required off-street parking. No off-street parking spaces shall be permitted within the required front yard directly in front of a single or two (2) family residence.

C. Open air parking areas shall be considered an accessory use and as such must be located in accordance with the requirements of §405 of this Part.

D. Enclosed buildings containing off-street parking shall be subject to the area requirements of a principal use within the district in which they are located.

E. Design and Maintenance.

(1) Size. Minimum dimensions for a conventional parking space shall be nine (9) feet in width by eighteen (18) feet in length. Handicapped parking spaces shall be a minimum of twelve (12) feet in width by twenty (20) feet in length.

(2) Lot Standards. Parking aisles and interior drives shall be a minimum width of twenty-five (25) feet. Aisles and drives shall be designed so that each vehicle may have ingress and egress from the space without moving any other vehicle. Access ways to and from public streets shall be designed to provide maximum safety to motorists and pedestrians.

(3) Surfacing. All off-street parking spaces shall hereafter be paved or cemented. No unapproved or gravel filled space shall be acceptable.

F. Screening. All open off-street parking areas containing more than three (3) parking spaces shall be required to provide screening from adjacent properties by a wall, fence or densely planted evergreen hedge not less than four (4) feet in height. Parking areas shall be arranged and designed to prevent damage to such wall, fence or hedge. Clear sight triangles, as defined by this Chapter, shall be maintained.

G. Lighting. All lighting used to illuminate off-street parking areas and driveways shall be directed away from residential properties or public streets. The lighting system shall provide a minimum two (2)

foot candle average during hours of operation with lighting units being located not more than seventy-five (75) feet apart.

H. Motor Vehicle Repair and Service. No major motor vehicle repair work or service of any kind shall be permitted in association with any off-street parking facilities.

I. Off-street Parking Waivers. All or a portion of the required off-street parking may be waived by Council in the M, C and S Districts when the property for which the parking is required is in an area where there are sufficient publicly owned automobile parking spaces in the vicinity to justify the waiver without detriment to the public health, safety and welfare. In cases where waivers are granted, the owner or occupant of the property on which the waiver is to be applied shall pay to the Borough an amount equal to the fair market value of the waived parking space, the area of which shall be determined by the number of required spaces times one hundred eighty (180) square feet.

J. Shared Parking. When a number of different uses in an area can demonstrate that one (1) or more of such uses require parking spaces at times other than normal business hours for other uses, the applicant may present to the Zoning Officer a written report stating that a maximum combination of all such uses will not require the number of parking spaces mandated in this Chapter. If the Zoning Officer, after review, determines that a reduced overall parking requirement can satisfy the off-street parking needs of the combined uses, the applicant shall be permitted to reduce the number of parking spaces in accordance with the plan approved by the Zoning Officer.

K. Location. All parking spaces required to serve structures or uses shall be located on the same zoning lot as the structure or use served or within six hundred (600) feet of a main entrance to the structure or use served. Notwithstanding the above provisions, the Zoning Officer, upon application, may authorize remote off-site parking at distances greater than six hundred (600) feet for uses in the M, C and S Zones if the remote off-site parking does not exceed seventy-five (75) percent of the number of parking spaces otherwise required herein.

3. Required Spaces by Type of Use.

<u>Use Types</u>	<u>Minimum Required Spaces</u>
<u>R-1 Residential District</u>	
single-family	Two (2) spaces per dwelling unit
multifamily in planned residential district	One and one-half (1 1/2) spaces per dwelling unit

ZONING

Use Types

elderly housing

Minimum Required Spaces

No general parking requirements. The developer must undertake a site specific parking study with the determination on the required amount of parking made by the Zoning Hearing Board. However no fewer than one (1) space per three (3) units shall be accepted

Residential Usage in All Other Districts

Single-family, two-family, multifamily, PRD

One and one-half (1 1/2) spaces per dwelling unit

Bank, Savings and Loan Association

One per 200 square feet of gross floor area (GFA)

Drive-in bank

One per exterior teller window and four for each interior teller window

Retail or service commercial unless specifically listed

One per 200 square feet of GFA

Personal service and repair establishments

One per 100 square feet of GFA plus one for each two employees

Business and professional offices (other than medical or dental offices)

One per 300 square feet of GFA

Doctor and dentist offices

One per examining room, plus one per physician and staff member

Eating and drinking establishments (sit-down type)

One per four seats and one per two seats at a bar or counter, plus one per two employees

Restaurants (drive-in type)

One per two seats, plus one per employee

Bowling alleys

Four per alley

Swimming pools and clubs

One space per 50 square feet of water area

Tennis, racquetball courts, etc.

3 spaces per court

Other commercial recreation facilities not specifically mentioned

Based on review of the Zoning Hearing Board

Laundromats

One per three (3) washing or dry cleaning machines (exclusive of dryers)



Use TypesMinimum Required Spaces

Gasoline service stations	Two spaces per service bay, plus one per employee
Automotive repair	One per 300 square feet of GFA
Veterinary office or clinic or hospital	One per 150 square feet of GFA plus one per staff member
Day care center	One per staff member plus one space per six children
Funeral home	One per three seats in any chapel or seating area and not less than five spaces for each viewing area or room
Hotel	One per guest room. Parking requirements for any restaurants within the hotel would be the same as those for eat-in restaurants. Parking requirements for areas used as ball-rooms, meeting rooms, etc., shall be 10 spaces per 1,000 square feet
Theater	One per four seats
School	Based on review by the Zoning Hearing Board
Private school for art, music, crafts, dance, etc.	One per staff member, plus one per three students
Hospitals	One and one-half (1 1/2) per bed plus one for each staff physician and one for each three other employees
Nursing or convalescent homes	One per three beds
Public or nonprofit recreation	One per four persons of design capacity for the facility
Lodges, clubs and meeting halls	One per 1.5 members
Churches and places of worship	One per three fixed seats
Public utilities	One per two employees on two largest shifts combined
Manufacturing warehouse and wholesale	One per two employees on the two largest shifts combined

For all other uses not specifically covered above, parking shall be provided as determined by the Zoning Hearing Board based on the number of employees, normal visitors or patrons and site location.

(Ord. 11-84, 8/21/1991, §4.6)

S407. Sign Regulations. No sign shall be erected, altered, painted, relocated, remodeled expanded or maintained that is not in accordance with the provisions of this Chapter and all other applicable Borough Codes.

A. Permitted Signs and Size Limitations.

(1) Residential Districts.

(a) Name plates or identification signs indicating the name of occupants of the residence or a permitted home occupation; signs of this nature shall not exceed one (1) square foot.

(b) Principal identification signs for authorized conditional uses, planned residential developments, and multifamily developments; signs of this nature shall not exceed twelve (12) square feet. Such signs may be either attached to a building or free standing.

(c) Real estate signs, not exceeding six (6) square feet, advertising the premise for sale or lease. Such signs must be removed within twenty (20) days of the sale or lease of the premises.

(d) Signs advertising the sale or lease of a planned residential development, multifamily development or lot subdivision development. Such signs shall not exceed twelve (12) feet and shall be removed within twenty (20) days of the last sale or lease of property.

(e) Construction signs advertising the development or improvement of a property by a builder, contractor or similar person provided that not more than one (1) such sign shall be permitted for a development or property. The sign shall not exceed twelve (12) square feet and must be removed within ten (10) days of the completion of work.

(2) Mixed Use District.

(a) Signs for any permitted residential use shall be the same as for residential districts.

(b) Identification or business signs for commercial, office or industrial uses indicating name of business and/or service or product sold shall not exceed twenty four (24) square feet.

(c) Construction signs as permitted in residential districts.

(d) Name plates or identification signs for other authorized uses shall not exceed twelve (12) square feet.

(3) Commercial District.

(a) Identification or business signs for permitted and conditional business uses shall not exceed thirty (30) square feet.

(b) Real estate signs, not exceeding six (6) square feet, advertising the premises for sale or lease. Such signs must be removed within twenty (20) days of the sale or lease of the premises.

(c) Construction signs advertising the development or improvement of a property by a builder, contractor or similar person provided that not more than two (2) such signs shall be permitted for a development or property. Signs shall not exceed twenty (20) square feet and must be removed within fifteen (15) days of the completion of work.

(d) A free-standing identification sign not exceeding one hundred (100) square feet for retail developments or shopping centers which exceed one hundred fifty thousand (150,000) square feet of retail owned by one (1) landowner. Such free-standing identification sign shall be erected in conformance with §407(B) except that the height of such sign may exceed twenty (20) feet but may not exceed thirty-five (35) feet. [Ord. 3-89]

B. Placement of Signs.

(1) No sign shall be erected except on the property to which it is related.

(2) No sign shall be erected upon or applied to any roof.

(3) Identification or business establishment signs in the Mixed Use, Commercial and Special Use Districts shall be attached to a front or side wall of a building. Signs shall be erected so that no portion of the sign is less than ten (10) feet above entrance grade.

(4) Identification or business establishment signs in the mixed use, commercial and special use districts for those properties with principal structures located twenty-five (25) feet or greater from the front lot line shall be permitted to erect free standing signs along the front lot line, provided such sign does not extend beyond the property's front lot line into the pedestrian walkway. [Ord. 2-85]

C. Height of Signs. No free standing sign in residential districts shall exceed eight (8) feet in height, as measured from ground level to the highest point upon the sign.

D. Additional Requirements.

(1) Signs that are animated or have flashing illumination are prohibited in all districts.

(2) Illuminated signs shall be designed and placed so as not to interfere with, distract, confuse, or blind operators of motor vehicles.

(3) Flood lighting shall be placed so that only the sign is directly illuminated.

(4) Every authorized sign must be constructed of durable materials and maintained in good condition and repair. If any sign becomes dilapidated to the point that it constitutes an unsightly or hazardous condition, then the Zoning Officer shall order it repaired within the (10) days or removed.

(5) If a use ceases for a period of six (6) months, all signs for that use must be removed.

(6) Zoning permits for the erection, alteration, relocation or replacement of any sign must be obtained according to the provisions of Part 8 of this Chapter.

(7) No sign shall be attached to any tree or utility pole on public or private property.

(8) Billboards, or outdoor advertising signs, which are not related to the use of the property on which they are located are not permitted in any district of the Borough.

(9) No more than three (3) permanent signs shall be permitted for any single commercial or industrial establishment; provided, that the total square footage of all signs does not exceed fifty (50) square feet.

E. Temporary Signs. Temporary outdoor signs advertising special business promotional activities, business openings or closings, and temporary activities such as street fairs and carnivals, are permitted provided:

(1) The temporary sign receives a permit from the Zoning Officer. The period of the permit shall not exceed thirty (30) days.

(2) The sign is only located on the premises where the special activity is taking place, and only one (1) such sign shall be permitted for the premises.

(3) The sign does not exceed ten (10) square feet.

(4) The sign is not animated or flashing, and any illumination for the sign does not create an unsafe condition for motorists or glare on surrounding properties.

F. Exemptions. The following signs shall be exempt from the requirements of this Section:

(1) Flags or emblems of a government, political, civic, philanthropic, educational or religious organization displayed on private property.

(2) Signs placed by a governmental body, including traffic or directional devices, legal notices and warning, instructional or regulatory signs.

(3) Address numerals and other signs required to be maintained by law or governmental regulation, provided that the content and size of the sign does not exceed the requirements of such law or regulation.

(4) Small signs, not exceeding five (5) square feet in area, displayed on private property for the convenience of the public, including signs to identify entrance and exit drives, parking areas, one (1) way drives, rest rooms, freight entrances, and the like.

(5) Incidental signs displayed inside a window of a commercial establishment to advertise special sales of products sold, credit cards accepted, or those required by law or ordinance.

(Ord. 11-84, 8/21/1984, §4.7; as amended by Ord. 2-85, 2/4/1984; and by Ord. 3-89, 7/3/1989)

§408. Fencing and Screening, Retaining Walls. Unless otherwise stipulated, the following standards shall apply:

A. Placement, Height, Acceptable Materials.

(1) Fences, walls (other than retaining) or screens may be erected only in a side or rear yard, and within lot boundaries in any zoning district.

(2) A retaining wall may be erected along any property line where it is required to prevent a landslide or other hazardous conditions.

(3) A fence or screen cannot be erected in a public or dedicated right-of-way.

(4) For residential uses, a fence or screen shall not exceed six (6) feet in height.

(5) For schools, playgrounds and parks, a fence or screen shall have a ratio of open to solid portion of not less than six (6) to one (1) and shall not exceed ten (10) feet in height, unless otherwise approved by Borough Council.

B. Performance Standards for Fences, Walls and Screens.

(1) In any district, trees, shrubs and other plantings are permitted in any front yard provided they do not block a clear view or vision for vehicular traffic.

(2) Authorized fences and screens, whether publicly or privately owned, shall not obstruct the clear sight distances at street intersections.

(3) Fences shall not contain barbs or similar types of injurious hazards, unless specifically approved by Code Enforcement Officer for security reasons. [Ord. 2-97]

C. Screening and Fencing for Commercial and Industrial Uses.

(1) A planted screen shall be of sufficient density and type of planting material to provide a year round visual barrier within two (2) growing seasons of planting. The minimum height shall be five (5) feet, but the Zoning Officer may require additional height where it is necessary to achieve adequate visual screening of the use.

(2) Walls, fences or other visual screens may be used in accordance with the other provisions of this Section.

(3) Screening of off-street parking and loading area may be used in accordance with §406 of this Chapter.

(4) The property or business owner shall be responsible for the continuing maintenance of any planted screen, fence, or wall.

(5) Water towers, storage tanks, processing equipment, fans, cooling towers, vents and other structures or equipment that rise above the roof line, other than a radio or television antenna, shall be shielded from the view of any public or private street in keeping with the architectural design of the building.

D. Permit Requirements.

(1) A zoning permit must be obtained from the Zoning Officer for the erection of any fence, wall or screen.

(2) If a fence, wall or screen is not maintained in a safe condition and in accordance with Borough regulations, the Zoning Officer shall give written notice to the owner to repair or remove the fence within ten (10) days of receipt of the notice. In the event the owner fails to comply with the order, the owner shall be considered in violation of this Chapter and subject to the penalties contained herein.

(3) If a fence, wall or screen is destroyed or deteriorates beyond fifty (50) percent of its length or width, then it must be

replaced or removed within forty-five (45) days of receipt of written notice from the Zoning Officer.

(Ord. 11-84, 8/21/1984, §4.8; as amended by Ord. 2-97, 7/28/1997)

§409. Off-Street Loading Requirements.

1. Applicability. In any zoning district, all structures and uses which require the receipt or distribution of materials or products by trucks or similar vehicles, shall provide accessory off-street loading spaces. When an existing structure is expanded, accessory off-street loading spaces shall be provided. Borough Council may waive or vary the off-street loading requirements for any conditional use during the conditional use approval.

2. General Provisions.

A. Location. All required loading spaces or berths shall be located on the same lot as the use served, and shall be positioned on the lot so that no portion of the vehicle shall project into any traffic lane. All motor vehicle loading berths which abut or are adjacent to a residence shall be completely screened therefrom by building walls or a solid fence, wall, planted screen or any combination thereof, not less than six (6) feet nor more than eight (8) feet in height. No permitted or required loading space or berth shall be located within forty (40) feet of the nearest point of intersection of any two (2) public streets or highways. No loading space or berth shall be located in a required front yard, and any loading space or berth located in a required rear yard shall be open to the sky.

B. Area. Unless otherwise specified, a required off-street loading space shall be ten (10) feet in width by at least fifty (50) feet in length, excessive of aisle and maneuvering space, and shall have a vertical clearance of at least sixteen (16) feet. The required length may be reduced by ten (10) feet, if the applicant certifies that the off-street loading use will only be single unit trucks or smaller.

C. Access. Each required off-street loading space shall be designated with appropriate means of vehicular access to a street, highway or alley in a manner which will least interfere with traffic movement.

D. Surfacing. All open off-street loading shall be improved with a compacted select gravel base, not less than seven (7) inches thick, surfaced with an all weather, dustless bituminous or cement material.

E. Repair and Service. No motor vehicle repair work or service of any kind shall be permitted in conjunction with any off-street loading facilities.

F. Utilization. Space allocated for any off-street loading berth shall not be used to satisfy the space requirements for any off-street parking facilities or portions thereof.

3. Required Off-Street Loading Spaces.

<u>Use</u>	<u>Required Berth (based on gross floor area)</u>
Light Manufacturing	One berth for every 10,000 square feet.
Business and Professional Offices	One berth for every 10,000 square feet not exceeding two required stalls
Food Stores and Other Retail Stores	One berth for every 5,000 square feet up to a maximum of 10,000 square feet, then one berth for every 20,000 square feet or fraction thereof.
Other Uses	One berth for every 8,000 square feet

(Ord. 11-84, 8/21/1984, §4.9)

§410. Environmental Quality Standards. All uses hereafter established in any zoning district shall comply with the environmental quality standards contained in this Section. These standards shall also apply to an existing use or structure, or portion thereof, when it is extended, enlarged, moved, structurally altered or reconstructed.

A. Fire and Explosive Hazards. All activities and all storage of flammable and explosive material at any point shall be provided with adequate safety devices against the hazards of fire and explosion, and adequate fire fighting equipment as specified by the Department of Labor and Industry and the laws and regulations of the Commonwealth of Pennsylvania and Beaver County. All buildings and structures and activities within such buildings and structures shall conform to the Borough's Building Code [Chapter 5, Part 2] and other applicable Borough ordinances.

B. Radioactivity or Electrical Disturbances. There shall be no activities which emit radioactivity at any point above natural limits set by State and/or Federal regulations. There shall no radio or electrical disturbance adversely affecting the operation of equipment belonging to someone other than the creator of the disturbance.

C. Smoke, Ash, Dust, Fumes, Vapors and Gases. There shall be no emission of smoke, ash, dust, fumes, vapors or gases which violates applicable Federal or State laws and regulations.

D. Liquid and Solid Wastes. There shall be no discharge at any point into any public or private sewerage systems, or watercourse or into the ground, of any materials in such a way or of such a nature, as will contaminate or otherwise cause the emission of hazardous materials



in violation of the laws and regulations of the Commonwealth of Pennsylvania. All required discharge and disposal permits shall be obtained. All garbage, trash and rubbish shall be stored in air tight metal or plastic containers.

E. Glare. No direct reflected glare, whether from any lighting source or production operation shall be visible from adjoining public streets or adjacent lots when viewed by a person standing on ground level. Glare shall be defined as direct or indirect light from activities of greater than one-half ( $\frac{1}{2}$ ) foot candle at habitable levels.

F. Odor. There shall be not emission of odorous gases or other matter in such quantities as to be offensive on adjoining streets or adjacent lots. Odor thresholds shall be measured in accordance with Title 25, DEP Rules and Regulations, Subpart C, Article III, §123.31. [Ord. 2-97]

G. Noise. No operation or activity shall cause or create noise in excess of the sound levels prescribed below. For the purpose of this Part, the noise level will be measured in decibels (dBA) which indicate the sound pressure level obtained from a frequency weighting network corresponding to the A-Scale on a standard sound level meter.

(1) Residential (R-1, R-2, R-3) Districts. At no point on or beyond the boundary of any lot within these districts shall the exterior noise level resulting from any use or activity located on such lot exceed a maximum of sixty (60) dBA for more than one (1) hour per twenty-four (24) hours.

(2) Mixed Use, Commercial and Special Use Districts. At no point on or beyond the boundary of any lot within these districts shall the exterior noise level resulting from any use or activity located on such lot exceed a maximum of sixty-five (65) dBA for more than eight (8) hours per twenty-four (24) hours.

(3) Where two (2) zoning districts in which different noise levels are prescribed share a common boundary, the most restrictive of the noise level standards shall govern.

(4) The following uses or activities shall be exempted from the noise regulations:

(a) Noises emanating from construction and/or maintenance activities between 7:00 a.m. and 9:00 p.m..

(b) Noises caused by safety signals, warning devices and other emergency related activities or uses. In addition to these regulations, all uses or activities within the Borough shall conform to any applicable State or Federal noise regulations.

H. Determination of Compliance.

(1) If, during the review of a zoning application, it appears that the proposed use or development may violate the quality standards contained in this Section, the Zoning Officer may initiate an investigation and may require the applicant to submit such data and evidence as is needed to make an objective determination. The evidence may include such items as:

(a) Plans of the existing or proposed development.

(b) A description of the existing or proposed machinery, processes and products.

(c) Specifications for the mechanisms and techniques used or proposed to be used in restricting the possible emission of any of the dangerous and objectionable elements as set forth in this Part.

(d) Measurements of the amount or rate of emission of said dangerous and objectionable elements.

(2) In order to determine compliance, the Zoning Officer may seek assistance from any county, State or Federal agency having interest in or jurisdiction for the particular environmental issue. The Zoning Officer may also require the applicant to submit a report from a qualified technical expert certifying that the proposed use does comply with the environmental quality standard(s). The technical expert shall be persons or firms mutually acceptable to the Borough and applicant. In the event agreement cannot be reached on the technical expert, the Borough shall make the selection. The cost of the expert's study and report shall be born by the applicant. A negative report by the technical expert, as to the proposed use's compliance with the quality standard(s) and the applicant's refusal or inability to make alterations to ensure compliance, shall be a basis for denying approval of the zoning application.

I. Continuing Enforcement.

(1) The Zoning Officer shall investigate any purported violation of the quality standards and, if necessary, request the Borough employ qualified experts to assist in the determination of a violation. The costs for the services of such experts shall be paid by the owner or operator of the facility accused of the violation.

(2) If the facility is found to be in violation, the owner or operator shall be given a reasonable length of time, not to exceed one (1) year, to correct the violation. If at the conclusion of this time period the violation still exists, and the Borough has not agreed to a time extension, the owner or operator shall be in violation of this Chapter and subject to the legal penalties and remedies contained herein.

(Ord. 11-84, 8/21/1984, §4.9; as amended by Ord. 2-97, 7/28/1997)

§411. Home Occupations.

1. Applicability. Home occupations, which comply with the definition and standards of this Chapter, shall be permitted as an incidental use to any principal dwelling unit.

2. Use Limitations. The following regulations shall apply to all home occupations permitted under the provisions of this Chapter:

A. No more than one (1) person other than members of the family occupying the dwelling shall be employed.

B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding one (1) square foot in area, nonilluminated, and mounted flush with the wall of the principal building.

D. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence.

E. No traffic shall be generated by such home occupation in greater volumes that would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

F. There shall be not outdoor storage of equipment, materials or finished products related to the home occupation.

3. Prohibited Home Occupations.

A. Nursery schools, dancing schools, exercise or health centers, day care centers, unless specifically permitted by the district regulations.

B. Funeral homes.

C. Eating and drinking establishments.

D. Animal kennels or hospitals.

E. Tourist homes, rooming houses, unless specifically permitted by the district regulations.

ZONING

- F. Medical or dental clinic or hospitals.
- G. Automobile, truck, bus or boat repairs or rental facilities.
- H. Video games and amusement arcades.
- I. Theaters and other entertainment and commercial recreation facilities.
- J. Hair care establishment.
- K. Sale of retail and wholesale items.

(Ord. 11-84, 8/21/1984, §4.10)

Part 5

Planned Residential Development

§501. Purpose. Rochester Borough hereby dedicates itself, through the planned development concept, to increasing the flexibility in the type, location, density and design of development and the encouragement of innovation and site planning in order to achieve the highest and best use of all property throughout the Borough. The type of development, minimum lot areas, densities and other similar requirements shall be determined by the provisions set forth in this Part, which shall supersede any other conflicting requirements located elsewhere in this Chapter. (Ord. 11-84, 8/21/1984, §5.1)

§502. Development Standards.

1. Permitted Uses.

- A. Single-family detached dwelling.
- B. Two family detached dwelling.
- C. Town house dwellings.
- D. Multifamily, multi-story dwellings (not to exceed four (4) stories).
- E. Any convenience type service or sales unit directly related to serving tenants or occupants of the development provided that such total area for all such uses shall not exceed five thousand (5,000) square feet.
- F. Medical professional offices limited to doctors' and dentists' offices and not exceeding a total of one thousand (1,000) square feet in area for each such office with the maximum for all such uses not to exceed ten thousand (10,000) square feet.
- G. Open space and recreational facilities designed to service residents of the development.

2. Site Requirements.

- A. Minimum land area for a planned residential development (PRD) shall be two (2) contiguous acres.
- B. A maximum of ninety (90) percent of the site may be used for development purposes including structures, streets, parking areas, private yards, courts and patios.
- C. A minimum of ten (10) percent of the gross site area shall be reserved private recreation and open space area. The amount, location and proposed use of all open space land shall be clearly shown on the

site plan. A minimum of twenty (20%) percent of the area designated as open space land shall be suitable for active recreational purposes with access to such space convenient to all residents.

D. Principal access to the PRD site shall be from public streets with sufficient operating capacity and structural condition to carry the proposed traffic generated by development.

E. The proposed PRD shall be served by sanitary sewage treatment and water supply systems which shall be sufficient to meet the needs of the projected population and which shall have received approvals and operating permits from the appropriate governmental agencies.

F. Water Supply. If water is to be provided by means other than by private wells owned and maintained by the individual owners of lots within the planned residential development, applicants shall present evidence to the Borough Council that the planned residential development is to be supplied by a certified public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority or utility. A copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement, or a commitment or agreement to serve the area in question, which ever is appropriate, shall be acceptable evidence. [Ord. 2-97]

3. Lot Sizes and Setbacks.

A. There shall be no minimum lot size, setbacks, percentage of lot coverage or lot width. The number of units per acre shall be established by Borough Council during the review of the PRD application, based upon topography of the site, geological and soil conditions, the amount and location of the common open space, the adequacy of utilities, public facilities and services, streets and traffic circulation. Proposals for units per acre shall be shown on the site plan and either approved or disapproved by Borough Council.

B. Each residential unit, professional office and convenience commercial unit shall have access to a public street or other approved right-of-way. Each structure shall be set back at least twenty-five (25) feet from each perimeter of the PRD site.

4. Clustering Requirements.

A. There shall be no town house structure containing more than six (6) dwelling units. Town houses and other multi-unit structures shall be arranged so as to ensure adequate light and air exposures for primary building walls (front and rear of building).

B. Each building shall be arranged in such a way as to avoid undue exposure to concentrated loading or parking facilities and shall be so oriented as to preserve privacy between adjacent buildings and lots. All buildings shall be situated so as to be accessible to emergency vehicles.

5. Common Open Space and Recreation Areas.

A. Common open space must be suitably improved for its intended use, but open space containing natural features worthy of preservation may be left unimproved. Any structures or improvements added to such common open spaces shall be designed to conserve and enhance the PRD.

B. All common open spaces and recreation areas must be conveyed in one (1) of the following ways, as approved by Council:

(1) In part or totally to the Borough.

(2) In part or totally to an organization established to own and maintain such area.

C. In cases where the Borough will not be accepting conveyance of such areas, the land owner shall provide for an organization or trust to own and maintain the property. The owner shall submit a plan describing the proposed organization, its powers, rights, and dues responsibilities. This plan must be approved by Borough Council prior to approval of the final PRD application. Such organization or trust shall not be dissolved, nor shall it dispose of any common facilities or open spaces in any manner whatsoever, except to another organization or trust established to maintain such common areas. However, common facilities or areas may be dedicated to the Borough at a later date, subject to approval by Council.

D. In the event of default of ownership and/or maintenance responsibilities by the established organization, the Borough may assume control and the resulting costs may be assessed against the property owners in the PRD. The Borough shall consider as prima facie evidence of default situations where no organization or trust has been set up or is inoperative for one (1) year, and a statement containing this stipulation shall be included upon the recorded plan of lots. The landowner shall also be required to record with the Recorder of Deeds of Beaver County an agreement between the landowner and Borough of Rochester to this effect so that future owners are properly advised of this stipulation.

(Ord. 11-84, 8/21/1984, §5.2; as amended by Ord. 2-97, 7/28/1997)

§503. Application for Tentative Approval of PRD Plan.

1. Application Format. The landowner, or his/her representative, shall submit to the Borough Planning Commission a tentative application containing the following elements:

A. Five (5) copies of the overall site plan of the PRD showing the location of the site and its size and topography; all existing and proposed structures and uses; the amount of acreage to be devoted to each use; the proposed density; the height and bulk of all structures; and the location of and amount of common open space and recreation areas.

B. Five (5) copies of the plan showing the proposed circulation system for vehicular and pedestrian traffic, and the location and width of proposed streets (public and private).

C. Five (5) copies of the plan for public utilities including sanitary sewerage, water and stormwater facilities. Stormwater facilities shall be designed to prevent soil erosion, sedimentation and downstream flooding during and after construction.

D. A written statement as to how common open spaces and recreation areas will be developed and maintained in conformance with §502(5).

E. A written statement disclosing any covenants, grants and easements or other restrictions in existence and/or proposed to be imposed on the use of the land and structures.

F. A written statement outlining the required modifications in the municipal land use regulations otherwise applicable to the subject property.

G. A written schedule showing the proposed times within which development will occur. In the event of a phased development, statements must be filed annually, on the anniversary of original approval, until the development is completed and accepted.

H. A written statement by the applicant indicating his/her interest in the land proposed to be developed and the reasons why the applicant believes the planned development would be in the public interest and how said development would be consistent with the Borough's community development objectives.

I. The application for tentative approval of a planned development shall supersede all other procedures or approvals required in the Borough's Subdivision and Zoning Regulations.

3. Tentative Application Review.

A. The Borough Planning Commission shall review the application for conformance with these PRD regulations and shall submit its review and recommendations to Borough Council at least ten (10) days prior to public hearing. Copies of the application shall immediately upon receipt be forwarded to the Beaver County Planning Commission for study and recommendation. The County Planning Commission shall be required to report to the Borough within thirty (30) days or forfeit the right to review.

B. Public Hearings.

(1) Within sixty (60) days after the filing of an application for tentative approval of a planned residential development pursuant to this Chapter, a public hearing pursuant to public notice on said application shall be held by the Borough Council.



(2) Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by rules of the Borough Council. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing.

(3) The parties to the hearing shall be the Borough, any person affected by the application who has made timely appearance of record before the Borough Council, and any other person including civic or community organizations permitted to appear by the Borough Council. The Borough Council shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Borough Council for that purpose.

(4) The chairman, or acting chairman in the absence of the chairman, of the Borough Council 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.

(5) The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.

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

(7) The Borough Council shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Borough Council. The cost of the original transcript shall be paid by the Borough Council if the transcript is ordered by the Borough Council or shall be paid by the person appealing from the decision of the Borough Council if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

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

(9) The Borough Council may continue the hearing from time to time, and may refer the matter back to the Planning Commission for a report, provided, however, that in any event, the public hearing or hearings shall be concluded within sixty (60) days after the date of the first public hearing.

[Ord. 2-97]

C. The Findings.

(1) The Borough Council within sixty (60) days following the conclusion of the public hearing shall, by official written communication to the landowner, either:

(a) Grant tentative approval of the development plan as submitted;

(b) Grant tentative approval subject to specified conditions not included in the development plan as submitted; or,

(c) Deny tentative approval to the development plan.

(2) Failure to so act with said sixty (60) day period shall be deemed to be a grant of tentative approval of the development plan as submitted. In the event, however, that tentative approval is granted subject to conditions, the landowner may, within thirty (30) days after receiving a copy of the official written communication of the Borough Council notify such Borough Council of his refusal to accept all said conditions, in which case, the Borough Council shall be deemed to have denied tentative approval of the development plan. In the event the landowner does not, within said period, notify the Borough Council of his refusal to accept all said conditions, tentative approval of the development plan, with all said conditions, shall stand as granted.

(3) The grant or denial of tentative approval by official written communication shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth the reasons for the grant, with or without conditions, or for the denial, and said communication shall set forth with particularity in what respects the development plan would or would not be in the public interest, including, but not limited to, findings of fact and conclusions on the following:

(a) In those respects in which the development plan is or is not consistent with the comprehensive plan for the development of the Borough;

(b) The extent to which the development plan departs from zoning and subdivision regulations otherwise applicable to the subject property including, but not limited to, density, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest;

(c) The purpose, location and amount of the common open space in the planned residential development, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development.

(4) The physical design of the development plan and the manner in which said design does or does not make adequate provision for public services, provide adequate control over vehicular traffic, and further the amenities of light and air, recreation and visual enjoyment;

(5) The relationship, beneficial or adverse, of the proposed planned residential development to the neighborhood in which it is proposed to be established; and

(6) In the case of a development plan which proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public and of the residents of the planned residential development in the integrity of the development plan.

(7) In the event a development plan is granted tentative approval, with or without conditions, the Borough Council may set forth in the official written communication the time within which an application for final approval of the development plan shall be filed or, in the case of development plan which provides for development over a period of years, the periods of time within which applications for final approval of each part thereof shall be filed. Except upon the consent of the landowner, the time so established between grant of tentative approval and an application for final approval shall not be less than three (3) months and, in the case of development over a period of years, the time between applications for final approval of each part of a plan shall be not less than twelve (12) months.

[Ord. 2-97]

(Ord. 11-84, 8/21/1984, §5.3; as amended by Ord. 2-97, 7/28/1997)

§504. Status of Plan After Tentative Approval.

1. The official written communication shall be certified by the Borough Secretary and shall be filed in his office, and a certified copy shall be mailed to the landowner. Where tentative approval has been granted, it shall be deemed an amendment to the zoning map, effective upon final approval, and shall be noted on the zoning map.

2. Tentative approval of a development plan shall not qualify a plat of the planned residential development for recording nor authorize development or the issuance of any building permits. A development plan which has been given tentative approval as submitted, to which has been given tentative

approval with conditions which have been accepted by the landowner (and provided that the landowner has not defaulted nor violated any of the conditions of the tentative approval), shall not be modified or revoked nor otherwise impaired by the action of the Borough pending an application or applications for final approval, without the consent of the landowner, provided an application or applications for final approval is filed or, in the case of development over a period of years, provided applications are filed, within the periods of time specified in the official written communication granting tentative approval.

3. In the event that a development plan is given tentative approval and thereafter, but prior to final approval, the landowner shall elect to abandon said development plan and shall so notify the Borough Council in writing, or in the event the landowner shall fail to file application or applications for final approval within the required period of time or times, as the case may be, the tentative approval shall be deemed to be revoked and all that portion of the area included in the development plan for which final approval has not been given shall be subject to those ordinances otherwise applicable thereto as they may be amended from time to time, and the same shall be noted on the zoning map and in the records of the Borough Secretary.

(Ord. 11-84, 8/21/1984, §5.4; as amended by Ord. 2-97, 7/28/1997)

§505. Application for Final Approval of the PRD Plan.

1. An application for final approval may be for all the land included in a development plan, or to the extent set forth in the tentative approval, for a section thereof. Said application shall be made to the Borough Manager within ninety (90) days of the grant of tentative approval. The application shall include any drawings, specifications, covenants, easements, performance bond and other such requirements mandated in the grant of tentative approval. A public hearing on an application for final approval of the development plan, or part thereof, shall not be required provided the development plan, or part thereof, submitted for final approval, is in compliance with the plan theretofore given tentative approval and with any specified conditions attached thereto.

2. In the event the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof, and as required by this Chapter and the official written communication of tentative approval, the Borough shall, within thirty (30) days of such filing, grant such development final plan approval.

3. In the event the development plan as submitted contains variations from the development plan given tentative approval, Council may refuse to grant final approval and shall, within thirty (30) days from the filing of the application for final approval, so advise the landowner in writing of said refusal, setting forth in said notice the reason why one (1) or more of said variations are not in the public interest. In the event of such refusal, the landowner may either:

A. Resubmit his application for final approval without the variations objected to; or,

B. Forward a written request to Council to hold a public hearing on his/her application for final approval.

If the landowner wishes to take either such alternate action he/she may do so at any time within which he shall be entitled to apply for final approval, or within thirty (30) additional days if the time for applying for final approval shall already have passed at the time when the applicant was advised of the denial.

4. If no action is taken by the applicant, the plan is deemed to have been abandoned. If a public hearing is requested, it shall be conducted in the same manner prescribed for tentative approval. Within thirty (30) days after the hearing, Council shall, by official written communication, either grant or deny final approval in the form and content required for an application for tentative approval.

(Ord 11-84, 8/21/1984, §5.5)

§506. Status of Plan After Final Approval.

1. A development plan, or any part thereof, which has been given final approval shall be so certified without delay by the Borough Council and shall be filed of record forthwith in the office of the recorder of deeds before any development shall take place in accordance therewith. Upon the filing of record of the development plan the zoning and subdivision regulations otherwise applicable to the land included in such plan shall cease to apply thereto. Pending completion, in accordance with the time provisions stated in §508 of the Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. §10508, of said planned residential development or of that part thereof, as the case may be, that has been finally approved, no modification of the provisions of said development plan, or part thereof, as finally approved, shall be made except with the consent of the landowner. Upon approval of a final plat, the developer shall record the plat in accordance with the provisions of §513(a) of the MPC, 53 P.S. §10513(a), and post financial security in accordance with §509 of the MPC, 53 P.S. §10509, and in accordance with the Borough's subdivision regulations.

2. In the event that a development plan, or a section thereof, is given final approval and thereafter the landowner shall abandon such plan or the section thereof that has been finally approved, and shall so notify the Borough Council in writing; or, in the event the landowner shall fail to commence and carryout the planned residential development in accordance with the time provisions stated in §508 of the MPC, 53 P.S. §10508, after final approval has been granted, no development or further development shall take place on the property included in the development plan until after the said property is reclassified by enactment of an amendment to this Chapter in the manner prescribed for such amendments in Article VI of the MPC, 53 P.S. §10601 et seq., and this Chapter.

(Ord. 11-84, 8/21/1984, §5.6; as amended by Ord. 2-97, 7/28/1997)

§507. Judicial Review. Any decision of Borough Council under this PRD provision granting or denying tentative or final approval of a development plan shall be subject to appeal to the courts in the same manner and within the same time limitation established for zoning appeals as provided by the Pennsylvania Municipalities Planning Code. (Ord. 11-84, 8/21/1984, §5.7)

§508. Fees. A fee as established by resolution of the Borough Council from time to time shall accompany each PRD application for tentative approval. Such fee shall be payable to the Borough of Rochester and shall not be refundable. No fee shall be required for an application for final PRD approval, unless an additional public hearing is required, in which event an additional fee, to be established from time to time by resolution of the Borough Council, shall be remitted to the Borough. Council may, at its discretion, impose other fees to defray actual expenses incurred during the course of the PRD review. (Ord. 11-84, 8/21/1984, §5.8; as amended by Ord. 2-97, 7/28/1997)

Part 6

Conditional Uses

§601. Applicability. Applications for conditional uses, when listed as permissible by this Chapter, shall be approved or denied by Borough Council in accordance with the standards and criteria of this Part. (Ord. 11-84, 8/21/1984, §6.1)

§602. Application Procedure.

1. Application Content. Applications for conditional uses shall be submitted to the Zoning Officer in the form prescribed by the Borough. Such materials shall include site and building plans which clearly identify the location, size, shape and use of the proposed use/structure, surrounding land uses, proposed vehicular and pedestrian accesses, and other information necessary to evaluate the application according to the standards contained in this Chapter.

2. Review Procedure.

A. The Zoning Officer shall forward the application to Council and the Planning Commission for review. The Planning Commission shall submit its comments, in writing, to Council within thirty (30) days.

B. Borough Council shall act to approve or deny the application within seventy-five (75) days of its filing. Council shall hold a public hearing, pursuant to public notice, on the application. [Ord. 2-97]

C. Within ten (10) days of its approval or denial of the application, Council shall provide the applicant with a written decision, identifying the reasons for its determination and making reference to the facts, ordinance provisions, rules or regulations upon which Council based its decision. In approving an application, Council may impose reasonable conditions and safeguards, which it determines necessary to accomplish the objectives of this Chapter.

D. Where Council fails to render a decision within the seventy-five (75) day period, the application shall be deemed to be approved, unless an extension of time has been agreed to by the applicant.

3. Approval Revocation. The approval of a conditional use application shall be valid for a period of one (1) year from the date of approval. If within this period, the building permit has not been applied for and/or construction begins, then the conditional use approval shall be revoked, and the applicant must reapply for conditional use approval. One extension of up to six (6) months may be granted by the Zoning Officer where the applicant can show good cause for the delay.

(Ord. 11-84, 8/21/1984, §6.2; as amended by Ord. 2-97, 7/28/1997)

§603. General Standards and Criteria. Before approving a conditional use application, Council shall determine that the proposed use will not alter the established character and use of the neighborhood or district in which it is located, and that it will not substantially impair the use or development of adjacent properties. Council shall use the following general standards, in its evaluation. These standards shall be in addition to any other requirements in this Chapter for a specific type of use or development:

A. The proposed use complies with all applicable provisions and requirements for that type of use contained in this Chapter, unless a variance to any provision has been granted by the Zoning Hearing Board, and with other applicable Borough laws and regulations.

B. The proposed use is compatible with the surrounding land uses, and it does not have a negative impact on the existing neighborhood in terms of air and water quality, noise, potential environmental hazards, glare and restrictions to natural light and circulation.

C. The proposed site for the conditional use is suitable in terms of topography and soils conditions and size, based on number of projected users and the frequency of use.

D. The proposed use and site provides for safe, adequate vehicular and pedestrian access. It has access from a street capable of handling the traffic generated by the proposed use, and it will not result in undue traffic congestion and hazardous conditions on adjacent streets. The use provides for safe, efficient internal circulation and sufficient off-street parking and loading.

E. The proposed use complies with all applicable standards and requirements for providing sanitary sewage disposal, water supply, storm drainage, and solid and toxic waste storage and disposal.

F. The proposed use provides screening or buffer areas as required by this Chapter.

G. The proposed use/development conforms to the scale, character and exterior appearance of existing structures and uses in the neighborhood in which it is located.

(Ord. 11-84, 8/21/1984, §6.3)

§604. Special Standards and Criteria. Some of the uses identified as conditional under various zoning districts identified in Part 3 present special concerns to the community, and as such will be subject to additional standards over and above those identified in §603. For the type of uses identified in this Section, Council shall also determine that the proposed use complies with these additional standards.

A. Standards for Group Residences and Personal Care Boarding Homes.



(1) Group residences and personal care boarding homes, as defined in Part 2, shall be considered for conditional use approval only in those zoning districts specified in this Chapter.

(2) No group residence or personal care boarding home may be located within the same block nor within one thousand (1,000) feet, which ever is more, of another group residence or personal care boarding home, nursing or convalescent home or institutional facility.

(3) Off-Street Parking. At least one (1) space per staff member per shift, one (1) space per three (3) residents for visitor use and one (1) space per two (2) residents where the facility includes residents capable of operating a motor vehicle.

(4) Any change in ownership and/or management or of any other condition in the original approval of the group residence or personal care boarding home shall be subject to an inspection by the Zoning Officer prior to such change to assure compliance with these regulations.

(5) Minimum lot area, setbacks and heights shall be as required for single-family dwellings in the district where the property is located. Borough Council may reduce these requirements when the group residence or personal care boarding home is to be located in an existing structure.

(6) The operator of the group residence or personal care boarding home shall obtain any required licenses or certifications from the appropriate Commonwealth or County agency prior to the conditional use approval. In no case shall an occupancy permit be granted by the Zoning Officer without evidence that the required licenses/certifications have been obtained.

(7) The Zoning Officer shall be responsible for an annual inspection of all such facilities to guarantee that all Borough building codes and ordinances are being complied with and to insure a safe and sanitary environment is being provided for residents. A fee, which shall be established from time to time by resolution of the Borough Council, shall be assessed to the operator for this inspection. [Ord. 2-97]

(8) All such uses shall place smoke detectors in all stairwells and in every sleeping room. Fire extinguishers shall be placed on every level.

(9) Residents of the Borough in need of the services offered by the group residence or personal care board home shall be considered on a propriety basis for vacancies when such consideration does not violate law or regulation.

B. Day Care Centers.

(1) The operator of the day care center shall obtain the required licenses and approvals from the appropriate Commonwealth agencies prior to approval of the conditional use application and/or the occupancy permit.

(2) The proposed facility shall provide parking in compliance with §406 of this Chapter. Section 406 shall be strictly enforced; and, regardless of the number of cars, parking areas shall also be screened in accordance with §408 of this Chapter.

(3) Maximum number of children permitted at the facility at any given time shall be determined by gross floor area. No more than six (6) children per five hundred (500) square feet of gross floor area shall be permitted.

C. Mobile Homes and Mobile Home Parks.

(1) Purpose and Objectives. The intent, purpose and objective of this Section is to protect and promote the safety, health, morals and general welfare, and to coordinate a uniform development for mobile home parks whereby parcels of land in excess of three (3) acres may be developed for such use.

(2) Use Regulations. The establishment of a mobile home park shall be of a conditional use nature and shall be permitted or denied after review and recommendation by the Borough Planning Commission and after review and approval by the Borough Council. Standards upon which conditional use approval shall be based shall include, but not be limited to:

(a) The site of the proposed mobile home park must be three (3) or more contiguous acres.

(b) Lot Area Per Dwelling Unit. Eight thousand (8,000) square foot minimum for each mobile home lot. Ten thousand (10,000) square foot minimum for any other use.

(c) Front Yard. The required depth for any mobile home shall be twenty-five (25) feet from the street right-of-way; all other types of buildings shall be thirty (30) feet. An open porch may be erected in a front yard provided it does not extend closer than fifteen (15) feet to the street right-of-way.

(d) Side Yards. The required width for any mobile home dwelling and accessory structure, shall be a minimum of ten (10) feet on both sides. For any other type of main building a minimum of twenty-five (25) feet shall be required on both sides.

(e) Accessory buildings shall be permitted in rear yards only and must maintain a five (5) foot setback from the rear lot line.

(f) A carport may be permitted over a driveway and a portion of the side yard provided that such carport is entirely open at least three (3) sides except for the necessary supporting columns and customary architectural features and is located at least three (3) feet from the side lot line.

(g) Lot Width. Eighty (80) feet minimum.

(h) Maximum Building Height. Thirty-five (35) feet for any main building, fourteen (14) feet for an accessory building.

(i) Off-Street Parking Standards and Requirements. All mobile home lots shall have a minimum of two (2) off-street parking spaces. Required parking spaces for main buildings shall be the same as set for such uses elsewhere in this Chapter.

(j) Mobile Home Lots. A mobile home lot shall be improved by an adequate foundation for the placement of the mobile home, subject to all restrictions set forth herein. Each mobile home foundation shall be provided with a steel reinforced concrete pad, with at least four (4) piers imbedded to at least twelve (12) inches below the frost line so that the mobile home support shall not collapse, shift or settle unevenly from the weight of the mobile home, inadequate drainage, vibration or other forces acting on the structure. The mobile home lot pad shall be required to sustain a minimum load of four thousand eight (4,800) pounds on each pier and shall be designed to resist the pressure of wind from any direction. The applicant for a mobile home park permit may be required by the Planning Commission and Council to demonstrate that the lot pads meet the above specifications prior to approval of an occupancy permit.

(k) The base of each mobile home shall be closed in with suitable opaque paneling of an exterior quality.

(l) Sewage Disposal. The developer of a mobile home park shall obtain a clearance from the Rochester Area Joint Sewer Authority stating that capacity is adequate to meet additional quantities resulting from the addition of mobile home park to the system.

(m) Storm Sewer. The developer shall make provisions for controlling all stormwater runoff in the mobile home park and shall install within the park an adequate system to carry the water from the roads.

(n) Street, Roads and Right-of-Ways. All right-of-ways within a mobile home park shall have a minimum fifty (50) feet width and a minimum of thirty-two (32) foot paved cartway. All streets, roads and right-of-ways in a mobile home park

shall remain in private ownership and it shall not be the responsibility of the Borough to maintain the same.

(o) Open Space. A minimum of ten (10%) of the gross site area of the mobile home park shall be reserved for private recreation and open space area. The amount, location and proposed use of all open space land shall be clearly shown on the site plan. A minimum of twenty (20) percent of the area designed as open space land shall be suitable for active recreational purposes with access to such space convenient to all residents.

(p) Smoke Detectors. A minimum of one (1) smoke detector shall be placed in each mobile home in a central location.

(q) Design Standards:

1) Screening. A planted visual barrier or landscape screen ten (10) feet in depth shall be provided and maintained by the owner of the mobile home park around the perimeter of the mobile home park, except where natural or physical man-made screening exists. This screen shall be composed of plants and trees arranged to form both a high level and low level screen. The high level screen shall consist of evergreen trees planted with specimens no less than an initial four (4) feet in height from grade level and planted at intervals of not more than ten (10) feet. The low level screen shall consist of shrubs or hedges planted at an initial height of not less than two (2) feet, and spaced at intervals of not more than five (5) feet. All plants not surviving three (3) years after planting must be replaced.

2) Landscaping. All mobile home lots shall be improved with a suitable ground cover and be maintained to create an attractive appearance.

3) Mobile Home Placement. All mobile homes shall be placed on the lot so that the long side of the home is parallel with the street right-of-way.

(3) Application Procedure.

(a) Preapplication Conference. Each applicant shall confer with the Planning Commission in connection with preparation of the mobile home park development prior to the submission of such application. The purpose of preapplication conferences is to benefit the applicant by providing information and guidance before the applicant enters into building commitments or incurs any substantial expense in the preparation of plans, surveys and other data.

(b) Application. The mobile home park development application shall precede the official site development plan and shall consist of the following:

1) The applicant shall make application for approval of a mobile home park to the Planning Commission. The Planning Commission shall be the responsible review body. However, the Borough Council shall make all final decisions regarding approval or disapproval of the final development plan.

2) The development plan must include both maps and a written statement and must show enough of the area surrounding the proposed development to demonstrate the relationship of the development to adjoining uses, both existing and proposed. The maps which are part of the development must contain the following information.

a) Existing topographic character of the land at not less than two (2) foot contour levels.

b) A layout of the subdivision of mobile home lots.

c) Public uses including parks, playgrounds and other open spaces.

d) A circulation diagram indicating the proposed movement of vehicles within the mobile home park to and from existing thoroughfares.

e) A generalized landscaping plan.

D. Automobile Service Stations.

(1) Definition. An automobile service station shall include a building or buildings for the sale of petroleum products, tires and automotive service. It shall not provide major repair facilities including paint spraying, body or fender work or separate automobile washing facilities.

(2) Use Regulations.

(a) No fueling service station shall be located within one thousand (1,000) feet of a similar facility.

(b) Access driveways to the service station shall be at least thirty (30) feet from the intersection of any public street.

(c) Fuel pumps, air stations and water outlets may be located outside of an enclosed building, provided that no portion of these facilities shall be closer than fifteen (15) feet from any property line.

(d) Inspections, lubrication, oil changes, tire changes and similar minor repairs are permitted if conducted entirely within a building.

(e) All automobile parts and supplies shall be stored within a building, except that automotive supplies may be displayed for sale at the fuel pump and at a distance no greater than five (5) feet from the pumps.

(f) All refuse shall be stored within a building or enclosed area.

(g) Minimum lot size shall be six thousand (6,000) square feet.

(h) No more than two (2) vehicles, awaiting service, shall be stored outdoors during nonbusiness hours. Junk vehicles shall not be stored in the open at any time.

(i) Automobiles, vans (less than twenty (20) feet) or utility trailer rental is an authorized accessory use, provided that no more than three (3) vehicles are visible on the premises at any time.

(j) Off-street parking spaces shall be provided in accordance with §406 of this Chapter.

E. Automotive Repair Facilities, Automobile Sales and Car Wash.

(1) Automotive repair facilities provide major mechanical repairs, painting and body work, in addition to parts and routine maintenance. A car wash may be a separate use or a part of other automotive repair activities.

(2) Use Regulations.

(a) All repair services shall be conducted within an enclosed building which complies with State and Borough regulations for such uses.

(b) All automotive parts and supplies shall be stored within an enclosed building.

(c) All refuse must be stored within a building or enclosed area.

(d) Automobile Repair Facilities. No more than two (2) vehicles, awaiting repairs, shall be stored outdoors during nonbusiness hours; junk vehicles shall not be stored in the open at anytime.

(e) Off-street parking spaces shall be provided in accordance with §406 of this Chapter.

(f) Minimum lot size shall be six thousand (6,000) square feet.

F. Video Games and Amusement Arcades.

(1) No video game or amusement arcade, as defined by this Chapter, shall be located within one thousand (1,000) feet of a public or private school, church, public recreation area, medical building or within three hundred (300) feet of the boundary of any R-1 or R-2 zone. This distance shall be measured from the entrance/exist of the facility in the most direct line or route on, along or across the streets adjacent to the facility, to a school, church, medical building, recreation area, or residential zone.

(2) The proposed facility shall comply with all provisions of Chapter 13, Part 3, "Licensing of Coin Operated Amusement Devices. [Ord. 2-97]

G. Adult Use Business. The Borough Planning Commission and Council shall review applications for adult use businesses, and grant conditional use approval only when all of the following requirements have been agreed to by the applicant:

(1) No adult use shall be located within, nor closer than one thousand (1,00) feet of any other adult use business.

(2) No adult use business shall be located within, nor closer than, five hundred (500) feet of an existing school, place of worship, public of worship, public recreational area, public building or facility.

(3) No adult use business shall be located within, nor closer than, one hundred (100) feet of the boundary of any residential district.

(4) No adult use business shall be located within, nor closer than two hundred (200) feet of any video game or amusement arcade, as defined by this Chapter, or any establishment licensed by the Pennsylvania Liquor Control Board.

(5) An adult use business shall be limited to one (1) exterior sign which shall not include any depiction, description, illustration of or language relating to any "specified sexual activities" or "specified anatomical areas" as defined by this Chapter. This provision shall apply to any display, decoration, sign, show window or other opening which is observable from a public street or any property that is not used as an adult use business. Size and placement of such signs must also comply with all standards contained in §407.

(6) For the purposes of this Section, distances shall be measured in a straight line from the nearest point of the building or structure to which a distance restriction applies.

The above conditions are adopted in keeping with the overall Community Development objectives of the Borough by providing for all types of uses, but are specifically intended to prevent adult businesses from having a negative effect upon adjacent uses or contributing to the blighting or downgrading of surrounding neighborhoods and the loss of property values.

H. Schools and Churches or Places of Worship.

(1) The height requirements of this district wherein the use is located may be exceeded if every portion of the building above the height limit is at least as many feet distant from lot lines as that portion of the building is to height.

(2) The minimum distances between main buildings on the zoning lot shall be as follows:

(a) Front-to-front, or front-to-rear, or rear-to-rear, two (2) times the height of the taller building, but not less than eighty (80) feet.

(b) Side-to-side, equal to the height of the taller building, but not less than twenty (20) feet.

(3) If housing in connection therewith is provided, including dormitory facilities for students and/or teachers, parsonages or friaries, convents, etc., there shall be provided a lot area of not less than ten (10,000) square feet plus three hundred (300) square feet for each sleeping room in excess of four (4); where a sleeping room is occupied by more than two (2) beds, every two (2) beds therein shall be counted as a single sleeping room.

(4) Minimum lot and yard requirements shall be as directed in the applicable zoning district.

I. Public Recreational Facilities and Other Public Buildings.

(1) When in an "S" District, it is demonstrated that the use or structure cannot reasonably serve the community from a location in another district classification.

(2) Safeguards are established to provide proper separation from and protection to abutting residential properties.

(3) Adequate provisions for off-street parking is provided, as determined according to the type of use and its planned service area.

J. Nursing Homes, Convalescent Homes and Hospitals.

(1) There shall be provided a lot area of not less than ten thousand (10,000) square feet, plus three hundred (300) square feet for each in-patient room.



(2) Dormitory facilities for doctors and nurses may be included provided there is a lot area of not less than three hundred (300) square feet for each sleeping room in excess of four (4); where a sleeping room is occupied by more than two (2) beds, every two (2) beds therein shall be counted as a single sleeping room.

(3) The height requirements of the district wherein the use is located may be exceeded if every portion of the building above the height limit is at least as many feet distant from lot lines at that portion of the building is to height.

K. Hotels.

(1) Each building containing guest rooms shall be on a section of ground not less than one thousand (1,000) square feet in area for each sleeping unit in a one (1) story building and of not less than seven hundred fifty (750) square feet in area for each sleeping unit in a building exceeding one (1) story. In no instance shall there be less than five hundred (500) square feet of ground area per sleeping room.

(2) Each guest room shall have at least three hundred (300) square feet of floor area (including bath) and no sleeping unit shall contain more than two (2) bedrooms.

(3) There shall be a minimum of ten (10) sleeping room units.

(4) All of the floor area devoted to residential use shall be in sleeping units, each with a private bathroom and none with cooking facilities, except for quarters for resident manager or proprietor.

(5) There may be meeting rooms, common dining facilities, swimming pools, tennis courts, and similar recreational uses as accessory uses and structures incident to the hotel operation.

L. Flea Markets, Farmers' Markets and Temporary Outdoor Amusement Fairs.

(1) Activity must be limited to an area with a mixed use or commercial zoning classification.

(2) Applicant must secure all necessary permits and licenses prior to the sale of any product.

(3) Applicants shall provide an agreement or letter of consent between the legal owner or the property and the applicant to the Borough prior to the approval of a conditional use.

(4) The applicant shall take measures to insure that adequate life safety and fire prevention procedures have been followed. This would necessitate consultation with the Borough Code Enforcement Officer and Fire Official prior to application for conditional

use approval. Their report and recommendation would then be forwarded to the Planning Commission and on to Council as part of the public record.

(5) The applicant's responsibility shall continue through completion of the activity with a time limit mutually agreed upon by the applicant and Borough Council. Daily maintenance of grounds shall consist of trash pickup and provisions for security.

(6) Applicant shall agree to indemnify and save harmless the Borough from any claim, demand or suit of any kind or nature whatsoever that may arise as a result of the construction, installation, operation or maintenance of their activity.

M. Retail Alcoholic Beverage Sales.

(1) No retail alcoholic beverage sale establishment shall be located within, nor closer than one thousand (1,000) feet of any other retail alcoholic beverage sale establishment or eating drinking establishments selling alcoholic beverages for on-premises consumption.

(2) No retail alcoholic beverage sale establishment shall be located within, nor closer than five hundred (500) feet of any residential zoning district.

(3) No retail alcoholic beverage sale establishment shall be located within, nor closer than five hundred (500) feet from any school, church, hospital or any similar institutional use.

(Ord. 11-84, 8/21/1984, §6.4; as amended by Ord. 2-97, 7/28/1997)

Part 7

Nonconforming Uses and Structures

§701. Applicability. Subject to the provisions of this Part, a use of a building or land existing at the time of the enactment of this Chapter, which conflicts with the provisions of this Chapter, shall be considered to be nonconforming. Such existing use of building or land may be continued. The Zoning Officer shall keep and maintain a list of all nonconforming uses existing at the time of the passage of this Chapter and which may come to exist in the future. (Ord. 11-84, 8/21/1984, §7.1)

§702. Changes to Nonconforming Structures.

1. Nothing in this Chapter shall prevent the improvement or restoration to any portion of a building or structure declared to be nonconforming.

2. A nonconforming building, or structure (excluding signs) may be altered, improved or reconstructed provided that the requested alteration, improvement or reconstruction does not make the structure any more nonconforming in any aspect.

3. If a nonconforming structure, or use thereof, is destroyed totally or partially by fire, collapse, explosion or other disaster, it may be reconstructed, and the nonconforming use thereof continued, if work commences within one (1) year to the date of destruction, and is pursued diligently to completion. However, reconstruction shall not make the building or structure any more nonconforming, in any aspect, than it was prior to destruction. Reconstruction must comply with applicable State and local building codes.

4. A conforming use in a nonconforming building or structure may expand within the existing building.

(Ord. 11-84, 8/21/1984, §7.2)

§703. Changes to Nonconforming Uses.

1. Residential Districts.

A. In any residential "R" district, nonconforming uses may expand up to twenty-five (25) percent of the original building or use area (measured in square feet), to allow for continuation and reasonable growth of the use. Such expansion shall not exceed applicable area requirements and shall not eliminate off-street parking and/or loading areas.

B. Borough Council may authorize an expansion or enlargement exceeding the twenty-five (25) percent limitation, where the expansion is to provide required off-street parking or loading space or to improve hazardous conditions.

ZONING

2. Mixed Use, Commercial and Special Use Districts. In any mixed use, commercial or special use district, a nonconforming use may expand up to fifty (50) percent of the original building or lot area (measured in square feet), in accordance with the same conditions stated in §703(1) above.

(Ord. 11-84, 8/21/1984, §7.3)

§704. Change of Use. A nonconforming use may be changed to a similar nonconforming use (e.g. commercial to commercial, industrial to industrial, etc.) within the same type of use category. When a nonconforming use is changed to a permitted one, it shall not be subsequently changed to a nonconforming use again at a later date. A change of one nonconforming use to another nonconforming use requires review and approval by the Zoning Hearing Board, in accordance with §805(6) of this Chapter. (Ord. 11-84, 8/21/1984, §7.4)

§705. Construction Approved Prior to Ordinance. Nothing in this Chapter shall require any change in plans, construction or designated use of a building or structure for which a building permit has been issued and the construction of which shall have been diligently prosecuted within six (6) months of the date of such permit, and the entire building completed according to approved plans within one (1) year of the enactment of this Chapter. (Ord. 11-84, 8/21/1984, §7.5)

§706. Abandonment. A nonconforming use of a building or land which has been abandoned shall not thereafter be returned to such nonconforming use. A nonconforming use shall be considered abandoned when one (1) or more of the following conditions apply:

- A. The intent of the owner to discontinue the use is apparent.
- B. A nonconforming use has been discontinued for a period of six (6) months, unless other facts show intention to resume the nonconforming use.
- C. It has been replaced by a conforming use.
- D. It has been changed to another nonconforming use under permit from the Zoning Hearing Board.

(Ord. 11-84, 8/21/1984, §7.6)

§707. Unlawful Use not Authorized. Nothing in this Chapter shall be interpreted as authorization for an approval of the continuance of the use of a structure or premises in violation of zoning regulations in effect at the time of the effective date of this Chapter. (Ord. 11-84, 8/21/1984, §7.7)

§708. Nonconforming Lot of Record.

1. In any residence district, a single-family detached dwelling which complies with applicable zoning restrictions except for lot area may be erected, provided that the following requirements are met:

A. The lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size, at such location, was not prohibited by any zoning ordinance then in effect.

B. The lot has remained in separate and individual ownership from the adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the applicable zoning ordinance or ordinances.

2. Construction permitted by the above shall comply with all the regulations except lot area and yard requirements applicable to single-family dwellings in the zoning district in which the lot in question is located. However, the following yard requirements shall apply:

A. Front Yards. As prescribed by the regulations for the zoning district in which the lot is located or by the provision for front yard exceptions in Part 4 of this Chapter.

B. Side Yards. The dwelling shall be placed on the lot so as to provide two (2) side yards. A side yard shall not be less than the smaller of (a) three (3) feet or (b) the minimum side yard prescribed by the regulations for the applicable zoning district.

C. Rear Yard. As prescribed by the regulations for the zoning district in which the lot is located, or no less than ten (10) feet.

(Ord. 11-84, 8/21/1984, §7.8)

§709. Status of Conditional Uses. Any use for which a conditional use permit has been issued as provided by this Chapter, shall not be deemed to be a nonconforming use, but it shall be deemed a lawful conforming use. Where a use exists at the effective date of this Chapter and is permitted by this Chapter only as a conditional use in the zoning district in which it is located, then it shall be deemed to be a lawful conforming use in each zoning district. (Ord. 11-84, 8/21/1984, §7.9)

§710. Termination of Nonconforming Signs.

1. Upon adoption of this Chapter, the Zoning Officer shall prepare a list of all nonconforming signs. Owners of these signs shall be notified in writing that they have six (6) years from the date of this Chapter's adoption to bring their signs into compliance with §407 of this Chapter.

2. If an existing use ceases during the six (6) year period, any new use shall replace the nonconforming sign with a conforming one.

ZONING

3. If the Zoning Officer orders repairs on a nonconforming sign, which shall equal fifty (50) percent or more of the sign's replacement value, then the sign shall be brought into conformance as part of the repairs.

4. A nonconforming sign cannot be enlarged or altered in any aspect, except to make safety improvements or changes which will make the sign conforming, or more conforming to the provisions of §407 of this Chapter.

(Ord. 11-84, 8/21/1984, §7.10)

Part 8

Administration and Enforcement

§801. Zoning Officer.

1. Appointment and Qualifications. The Zoning Officer shall be appointed by the Borough Council and shall administer and enforce this Chapter. The Zoning Officer shall also hold the office of the Code Enforcement Officer, as provided under Chapter 5, Part 1 [Code Enforcement]. The Zoning Officer's qualifications and terms of office shall coincide with those of the Code Enforcement Officer. The Zoning Officer shall be directly responsible to the Borough Manager. [Ord. 2-97]

2. Duties of the Zoning Officer. In order to administer and enforce properly this Chapter, the Zoning Officer shall:

A. Receive and review all applications, for zoning permits and maintain records thereof.

B. Issue zoning permits for construction and occupancy for all applications that comply with the literal terms of this Chapter and all other applicable ordinances.

C. Record and file all applications for zoning permits, with all accompanying plans and documents, at the office of the Borough Manager.

D. Make reports relative to any application as the Borough Manager and Borough Council directs.

E. Receive, file and forward to Borough Council all applications for conditional uses and planned residential developments, maintain records thereof, and issue a zoning permit when authorized by Borough Council.

F. Receive, file and forward to the Zoning Hearing Board the records in all appeals, and all applications for special exception uses, variances and changes of nonconforming uses; maintain records thereof; and issue a zoning permit when authorized by the Zoning Hearing Board.

G. Inspect building, structures and uses of land to determine compliance with the provisions of this Chapter.

H. Issue stop, cease and desist order and issue written correction orders for any condition found to be in violation of this Chapter and other applicable ordinances. Such written order shall be delivered personally or by certified mail to the individual(s) in violation and shall state the period of time given to correct the violation.

I. Institute, with approval of or at the discretion of Borough Council, appropriate legal action to prevent, restrain, abate, or correct any violation of this Chapter.

J. Revoke any order or zoning permit issued under a mistake of fact or contrary to the provisions of this Chapter.

K. Make and maintain accurate and current records of all legal nonconformities under this Chapter.

(Ord. 11-84, 8/21/1984, §8.1; as amended by Ord. 2-97, 7/28/1997)

§802. Required Zoning Permits.

1. No use of land shall be made or any building or structure constructed, altered, occupied or use, nor any existing use of a building, structure or land be changed until a zoning permit, shall have been issued by the Zoning Officer.

2. The improvements of land preliminary to any use of such land shall not be commenced prior to the issuance of the zoning permit.

3. Any permit issued in conflict with the provisions of this Chapter shall be null and void.

4. Permit Application and Issuance Procedures.

A. Whenever the proposed activity, whether new construction or alteration of an existing use requires a building permit under the Borough Building Code [Chapter 5, Part 2], the application for the zoning permit shall be made prior to or simultaneously with the application for the building permit. The building permit shall not be issued until the zoning permit application has been approved.

B. When no building permit is required, the application for the zoning permit may be made at any time prior to the use or occupancy of the structure or land.

C. Permit applications shall be submitted in writing on such forms or in such format as established by the Borough. The Zoning Officer may request any information necessary to determine the application's compliance with this Chapter.

D. The Zoning Officer shall not issue the Zoning Permit until all other required approvals and permits have been obtained from applicable Borough, State and Federal agencies. The applicant shall submit copies of such approvals/permits to the Zoning Officer.

E. An application for a zoning permit does not permit occupancy; an occupancy permit is also required.

F. Upon completion of the applied for work, the applicant shall notify the Zoning Officer who shall examine the building, structure or use of land involved within ten (10) days of the completion of work. If the Zoning Officer shall find that such construction, erection, structural alteration, or use of building and land has been completed



in accordance with the provisions of this Chapter and other applicable ordinances, the occupancy permit shall be issued.

5. Period of Validity. A zoning permit shall become null and void within six (6) months of the date of issuance unless the construction, or alteration of a structure is commenced or a use of land or building is commenced by that date.

6. Temporary Zoning Use and Occupancy Permits. The Zoning Officer may issue a temporary zoning permit which may allow the use or occupancy of a building or structure during structural alteration thereof or may permit the partial use or occupancy of a building or structure during its construction or erection; provided, however, that such a temporary permit shall be valid only for a period not exceeding six (6) months from its issuance, and shall be subject to such restrictions and provisions as may be deemed necessary by the Zoning Officer to ensure the safety of persons using or occupying the building, structure or land involved.

(Ord 11-84, 8/21/1984, §8.2)

§803. Schedule of Fees. Borough Council shall establish, from time to time, fees and charges for all permits and applications required by this Chapter. All fees and charges shall be adopted by resolution of Borough Council at any regular or special meeting. (Ord. 11-84, 8/21/1984, §8.3)

§804. Zoning Hearing Board.

1. Zoning Hearing Board.

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

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

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

D. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action a quorum shall be

not less than a majority of all the members of the Board, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided in this Chapter.

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

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

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

A. Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by rules of the Board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing.

B. 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.

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

D. The parties to the hearing shall be the Borough, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.

E. The chairman or acting chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of

relevant documents and papers, including witnesses and documents requested by the parties.

F. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.

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

H. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

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

J. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this Chapter or of any law, ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within forty-five (45) days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than thirty (30) days after the report of the hearing officer. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within sixty (60) days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision

has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of the said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in subsection (1) of this Section. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

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

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

3. Jurisdiction.

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

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

(2) Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance. Where the ordinance appealed from is the initial zoning ordinance of the Borough and a Zoning Hearing Board has not been previously established, the appeal raising procedural questions shall be taken directly to court.

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

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

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

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

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

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

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

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

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

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

(3) Applications for conditional use under the express provisions of this Chapter.

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

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

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

shall be to the Planning Commission and all appeals from the decision of the Planning Commission shall be to court.

(Ord. 11-84, 8/21/1984, §8.4; as amended by Ord. 2-97, 7/28/1997)

§805. Functions of the Zoning Hearing Board.

1. Variances.

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

(1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Chapter 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 Chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

(3) That such unnecessary hardship has not been created by the applicant.

(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 or 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.

B. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 et seq.

[Ord. 2-97]

2. Special Exceptions. Where the Borough Council, in this Chapter, has stated special exceptions to be granted or denied by the Zoning Hearing Board pursuant to express standards and criteria, the Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Chapter, as it may deem necessary to implement the purposes of this Chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 et seq. [Ord. 2-97]

3. Unified Appeals. Where the Board has jurisdiction over a zoning matter pursuant to §805, the Board shall also hear all appeals which an applicant may elect to bring before it with respect to any municipal ordinance or requirement pertaining to the same development. In any such case, the Board shall have no power to pass upon the nonzoning issues, but shall take evidence and make a record thereon as provided in §804(5) of this Chapter. At the conclusion of the hearing, the Board shall make findings on all relevant issues of fact which shall become part of the record on appeal to the court.

4. Changes of Nonconforming Uses. In accordance with Part 7 of this Chapter, the Zoning Hearing Board shall hear requests for a change of one (1) nonconforming use to another nonconforming use. Before approving an application, the Board shall determine that:

A. The proposed use is within the same type of use category as the original nonconforming use (e.g. one (1) personal service business to another).

B. The proposed use will not be any more objectionable than the original nonconforming use in terms of traffic generation and requirements in terms of traffic generation and requirements for off-street parking and loading; outdoor storage of wastes, materials, supplies and equipment; height, area and volume of all structures.

C. The proposed use can comply with the applicable environmental quality standards for noise, air and water quality, glare odors, fire and explosive hazards, vibrations, screening and stormwater management contained in Part 4 of this Chapter.

5. Parties Appellant Before the Board. Appeals raising the substantive validity of any land use ordinance (except those to be brought before the Borough Council pursuant to the Pennsylvania Municipalities Code, procedural questions or alleged defects in the process of enactment or adoption of a land use ordinance; or from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot; from a determination by the Borough Engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance; from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this Chapter; from the determination of the Zoning Officer or Borough Engineer in

the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving subdivision and land development or planned residential development may be filed with the Zoning Hearing Board in writing by the landowner affected, any officer or agency of the Borough, or any person aggrieved. Requests for a variance and for special exception may be filed with the Board by any landowner or any tenant with the permission of such landowner. [Ord. 2-97]

6. Time Limitations.

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

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

[Ord. 2-97]

7. Stay of Proceedings.

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

B. After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing,



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

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

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

[Ord. 2-97]

(Ord. 11-84, 8/21/1984, §8.5; as amended by Ord. 2-97, 7/28/1997)

§806. Appeals to Court. Any person aggrieved may appeal to court as provided by Article X-A of the Municipalities Planning Code, 53 P.S. §11001 et seq. (Ord. 11-84, 8/21/1984, §8.6; as amended by Ord. 2-97, 7/28/1997)

§807. The Planning Commission. The Rochester Borough Planning Commission shall be appointed by Borough Council as prescribed by the Pennsylvania Municipalities Planning Code and Chapter 1, Part 4B. Under the provisions of this Chapter the Planning Commission shall perform the following duties: [Ord. 2-97]

A. Prepare and make recommendations to Borough Council on proposed amendments to this Chapter and Zoning Map.

B. Review and make recommendations to Borough Council on conditional use applications.

C. Review and make recommendations to Borough Council on applications for planned residential developments.

D. Review and make recommendations to the Zoning Hearing Board on applications for variances or special exceptions, upon request by the Zoning Hearing Board.

E. Provide technical and consultative assistance to other Borough boards, commissions and officials in the exercise of their duties relating to this Chapter.

F. Maintain accurate and current records of all actions taken in relation to the provisions of this Chapter.

G. Prepare an annual report to Borough Council outlining any substantive or administrative problems that have been identified in this Chapter along with the recommended changes to correct the problems that have been identified in this Chapter along with recommended changes in this Chapter to reflect changes in development conditions, land uses, population, public services and facilities or similar conditions.

(Ord. 11-84, 8/21/1984, §8.7; as amended by Ord. 2-97, 7/28/1997)

§808. Amendments to the Zoning Ordinance or Map.

1. Enactment of Zoning Ordinance Amendments.

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

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

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

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

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

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

2. Procedure for Landowner Curative Amendments.

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

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

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

(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 this Chapter or Zoning 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, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and,

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

3. Procedure for Borough Curative Amendments.

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

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

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

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

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

3) Reference to this entire Chapter which requires revisions.

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

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

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

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

(Ord. 11-84, 8/21/1984, §8.8; as amended by Ord. 2-97, 7/28/1997)

§809. Enforcement Notice.

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

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

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

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

B. The location of the property in violation.

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

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

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

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

(Ord. 11-84, 8/21/1994; as added by Ord. 2-97, 7/28/1997)

§810. Causes of Action. In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Chapter, the Borough Council or, with the approval of the Borough Council, an officer of the Borough, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Borough at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Borough Council. No such action may be maintained until such notice has been given. (Ord. 11-84, 8/21/1984, §8.9; as amended by Ord. 2-97, 7/28/1997)

§811. Enforcement Remedies.

1. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than five hundred (\$500.00) dollars plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this Chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one (1) such violation until the fifth (5th) day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation.

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

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

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

(Ord. 11-84, 8/21/1984, §8.10; as amended by Ord. 2-97, 7/28/1997)

Part 9

Zoning Map

<u>Ordinance No.</u>	<u>Date</u>	<u>Subject</u>
1-93	1/19/1993	Changing the area bounded by North Way on the south, Rhode Island Avenue on the west, Milden Way on the north and Franklin Way on the east from an R-3, High-Density Residential District to M, Mixed Use District.
3-93	1/19/1993	Changing the area bounded by North Way on the south, Rhode Island Avenue on the west, Milden Way on the north and Franklin Way on the east, from an R-3 High-Density Residential District to an M Mixed Use District.

