

Chapter 27

Zoning

Part 1

Short Title, Purpose and Community Development Objectives

- §27-101. Short Title
- §27-102. Purpose
- §27-103. Community Development Objectives

Part 2

Definitions

- §27-201. Word Usage
- §27-202. Language Interpretation
- §27-203. Specific Words and Phrases

Part 3

Zone Regulations

- §27-301. Zones and Boundaries
- §27-302. Use Regulations
- §27-303. Residential Zone (R)
- §27-304. Village Center Zone (VC)
- §27-305. Historic Zone (H)
- §27-306. Floodplain Zones; Floodway (FW), Flood Fringe (FF), General Floodplain Area (FA)

Part 4

General Provisions

- §27-401. Accessory Uses and Structures
- §27-402. Outdoor Swimming Pool Requirements
- §27-403. Setback Modifications
- §27-404. Height Modifications
- §27-405. Minimum Habitable Floor Area
- §27-406. Unenclosed Storage
- §27-407. Sale of Agricultural Products
- §27-408. Outdoor Signs
- §27-409. Parking
- §27-410. Loading
- §24-411. Driveways
- §27-412. Screens and Buffers
- §27-413. Drainage
- §27-414. Illumination
- §27-415. Demolition
- §27-416. Buildings Under Construction

- §27-417. Division of Built-On Lots
- §27-418. Lots of Record
- §27-419. Nonconformities

Part 5
Zoning Hearing Board

- §27-501. Powers and Duties; General
- §27-502. Public Hearings
- §27-503. Variances
- §27-504. Special Exceptions

Part 6
Standards for Special Exception Uses

- §27-601. Requirement of Specific Standards
- §27-602. Adult Regulated Facility
- §27-603. Bed and Breakfast Inn
- §27-604. Cemetery
- §27-605. Cluster Development
- §27-606. Commercial School or School Licensed by the Pennsylvania Department of Education
- §27-607. Convalescent Home, Nursing Home or Hospital
- §27-608. Day Care Center
- §27-609. Day Care Home
- §27-610. Domiciliary Care Home
- §27-611. Funeral Home
- §27-612. Greenhouse, Horticultural Nursery
- §27-613. Group Home
- §27-614. Group Quarters
- §27-615. Heavy Storage Service
- §27-616. Home Occupation and Profession
- §27-617. House of Worship
- §27-618. Junkyard, Automobile Dismantling Plant
- §27-619. Kennel, Animal Hospital
- §27-620. Laundry, Dry-Cleaning Establishment
- §27-621. Light Industry
- §27-622. Medical Clinic
- §27-623. Mini-Storage
- §27-624. Mobile Home Park
- §27-625. Multi-Family Dwelling(s)
- §27-626. Multi-Family or Two-Family Conversion
- §27-627. Nonconformity, Expansion or Alteration of
- §27-628. Outdoor Commercial Recreation Establishment
- §27-629. Park and Other Recreation Areas of a Nonprofit Nature
- §27-630. Personal Care Boarding Home
- §27-631. Public Buildings and Facilities
- §27-632. Public Utility Building
- §27-633. Research Laboratory
- §27-634. Rooming House

- §27-635. Service Station or Convenience Store Dispensing Fuel
- §27-636. Shopping Center or Mall
- §27-637. Vehicle Washing Facility

Part 7
Administration and Enactment

- §27-701. Permits
- §27-702. Erroneous Permit
- §27-703. Enforcement; Zoning Officer
- §27-704. Modifications
- §27-705. Amendments
- §27-706. Fees
- §27-707. Appeals
- §27-708. Repealer
- §27-709. Interpretation
- §27-710. Violations
- §27-711. Validity
- §27-712. Effective Date
- §27-713. Enforcement Notice
- §27-714. Enforcement Remedies

Part 1**Short Title, Purpose and Community Development Objectives****§27-101. Short Title.**

This Chapter shall be known and may be cited as the “Lewisberry Borough Zoning Ordinance.”

(*Ord. 6/6/1988, §101*)

§27-102. Purpose.

1. The purpose of these regulations is to provide for the harmonious development of the Borough by facilitating:

- A. The orderly and efficient integration of land development within the Borough.
- B. Proper density of population.
- C. Adequate water and sewerage.
- D. Adequate police and fire protection, schools, parks and other public grounds and buildings.
- E. The protection of water resources and drainageways.
- F. Adequate light and air.
- G. Adequate transportation, parking and loading space.
- H. The greater health, safety and welfare of the citizens of the Borough.
- I. Protection of the agricultural resources of the Borough.
- J. Adequate sites for recreation, conservation, scenic and other open space purposes.
- K. The prevention of blight and overcrowding of land.

(*Ord. 6/6/1988, §102*)

§27-103. Community Development Objectives.

This Chapter is enacted as part of the overall plan for the orderly growth and development of Lewisberry Borough. As such, this Chapter is based upon the expressed or implied community development objectives as contained in the Lewisberry Borough Comprehensive Plan.

(*Ord. 6/6/1988, §103*)

Part 2**Definitions****§27-201. Word Usage.**

Words and phrases shall be presumed to be used in their ordinary context unless such word or phrase is defined or interpreted differently within this Part.

(Ord. 6/6/1988, §201)

§27-202. Language Interpretation.

Unless otherwise expressly stated, the following shall, for the purpose of this Chapter, be interpreted in the following manner:

- A. Words used in the present tense imply the future tense.
- B. Words used in the singular imply the plural.
- C. The word “person” includes a partnership, corporation or other legal entity as well as an individual.
- D. The word “shall” or “must” is to be interpreted as mandatory; the word “may” as directory, and complied with unless waived.

(Ord. 6/6/1988, §202)

§27-203. Specific Words and Phrases.

For the purposes of this Chapter, the following words and phrases have the meaning given herein:

Access drive - a paved surface, other than a street, which provides vehicular access from a street or a private road to a lot.

Adult regulated facility - an establishment open to the general public, except persons under the age of 18 years, where more than 20 percent of the occupied area of the facility is used for one or more of the following purposes:

(1) *Adult book store* - an establishment which offers for sale, for rent, for lease, for view on the premises or for loan, pictures, photographs, drawings, sculptures, motion picture film, or similar visual representation of sexual conduct, or sexual excitement, or books, pamphlets magazines, printed matter or sound recordings containing explicit and detailed descriptions or narrative accounts of sexual conduct or sexual excitement; or offers for sale devices, equipment, stimulants or other materials for use in sexual conduct or sexual excitement.

(2) *Adult theater* - an establishment used for presenting motion picture film, video tape or any similar visual representation of matters distinguished or characterized by an emphasis on specific anatomical area, specific sexual activities or sexual devices, commonly referred to as “X-rated” movies, peep shows or the equivalent thereof.

(3) *Adult massage parlor* - an establishment having a source of income or compensation derived from the practice of massage, but shall exclude licensed

hospitals, licensed nursing homes, medical offices, clinical offices or other offices and quarters of licensed health professional practitioners.

Alterations - as applied to a building or structure, any change or rearrangement in the total floor area, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

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

Amendment - a change which includes revisions to the zoning text and/ or the Official Zoning Map; and the authority for any amendment lies solely with the Borough Council.

Animal hospital - a building used primarily for the treatment, by a veterinarian, of small domestic animals such as dogs, cats, rabbits, and birds or fowl. Boarding of such animals shall be for medical or surgical treatment.

Applicant - any landowner, lessee or his authorized agent who submits plans, data and/or application to the Zoning Officer or other designated Borough official for the purpose of obtaining approval thereof.

Basement - a story having part but not more than one-half of its height below the average level of the adjoining ground.

Bed and breakfast inn - an establishment in a single-family dwelling providing guest rooms for overnight accommodation and a morning meal for compensation. [Ord. 2014-2]

Block - an area bounded by streets.

Building - any structure or edifice designed or intended for use as an enclosure, a shelter, or for the protection of persons, animals or property.

(1) *Detached* - a building which has no party wall.

(2) *Semi-detached* - building which has only one party wall in common.

(3) *Attached* - a building which has two or more party walls in common.

Building, accessory - a building subordinate to and detached from the main building on the same lot and used for purposes customarily incidental to the main building.

Building area - the total area of outside dimensions on a horizontal plane at ground level of the principal building and all accessory buildings.

Building height - the total overall height of a building measured from the basement floor or grade level (if no basement exists) to the highest point of the roof.

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

Cellar - a story partly underground and having more than one-half of its clear height below the average level of the adjoining ground.

Cluster development - an area of land in single ownership to be developed as a residential community in which the dimensions of individual lots may be reduced, but in which common areas are provided so that the overall density required in

that zoning district is maintained. A type of planned residential development (PRD).

Commercial school - an educational facility operated as a gainful business whereby some form of special instruction or training is offered to those enrolled. The curriculum can include such things as business and technical programs, handicrafts and trades as well as artistic, dance, baton twirling and musical training.

Common open space - a parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of the development, not including streets, off-street parking areas, and areas set aside for public facilities. Common open space shall be substantially free of structures but may contain such improvements as are in the development plan as finally approved and as are appropriate for the recreation of residents.

Comprehensive Plan - the plan, or parts thereof, if any, which have been adopted by the Borough Council, showing its recommendations for such systems as: land uses, parks and recreation facilities, water supply, sewerage and sewage disposal, garbage disposal, transportation, highways, civic centers and other public improvements which affect the development of the Borough.

Condominium - a type of ownership arrangement, not a land use, wherein parts of a building typically are owned separately by persons and other parts such as halls, stairs and recreation areas are owned jointly by such persons. A condominium may be residential, commercial or industrial in nature.

Convalescent or nursing home - a licensed establishment which provides full-time residential, intermediate or skilled nursing care for three or more individuals who, by reason of chronic illness or infirmity, are unable to care for themselves. No care for the acutely ill or surgical or obstetrical services shall be provided in such a home.

Day care center - a facility licensed by the State that provides a wide range of formal day care services for remuneration to seven or more children or adults, but not both children and adults, who are not relatives of the care giver.

Day care home - a facility located in a single-family residence which provides supervised care for remuneration to not more than six children or adults, but not both children or adults, who are not relatives of the care giver.

Domiciliary care home - an existing building or structure designed for a dwelling unit for one family which provides 24-hour supervised protective living arrangements by the family residing therein for not more than three unrelated persons 18 years of age and above who are disabled physically, mentally, emotionally or who are aged persons.

Drive-in business - a commercial establishment, including a drive-in eating establishment, offering articles or services which are either purchased or consumed on the premises and which has a greater area devoted to the purchase and consumption of such articles and services on the outside than on the inside of the building.

Driveway - a minor vehicular right-of-way providing access between a street

and a parking area or garage within a lot or property.

Dwelling - a building or structure designed for living quarters for one or more families, including mobile homes, but not including, rooming houses, convalescent homes, motels, hotels, and tourist homes or other accommodations used for transient occupancy.

(1) *Single-family* - a building designed and occupied exclusively as a residence for one family.

(2) *Two-family* - a building designed and occupied exclusively as a residence for two families.

(3) *Multi-family* - a building designed and occupied as a residence for three or more families living independently of each other and doing their own cooking; including apartment houses, row houses, or townhouses.

Dwelling unit - any structure, or part thereof, designed for occupancy by not more than one family for living purposes and having complete housekeeping facilities.

Easement - a limited right of use granted on private land for public or quasi-public purpose.

Eating establishment - any public eating place where food is prepared and sold for consumption either on or off the premises.

Family - one or more persons who live in one dwelling unit and maintain a common household. May consist of a single person or two or more persons, whether or not related by blood, marriage, or adoption. May also include domestic servants and gratuitous guests, but not occupants of a club, fraternal lodging, or rooming house.

Farm - any parcel of land which is used for gain in the raising of agricultural products, livestock, poultry or dairy products, including necessary farm structures and the storage of equipment customarily incidental to the primary use.

Flood-prone area - a relatively flat or low land area adjoining a stream, river, or watercourse which is subject to partial or complete inundation; or any area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

Floodproofing - any combination of structural and nonstructural additions, changes, or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures, and contents of buildings.

Floodway - the channel of a river or other watercourse and the adjacent land areas required to carry and discharge a flood of a given magnitude.

Floor area, habitable - the aggregate of the horizontal areas of all rooms used for habitation, such as living room, dining room, kitchen, bedroom, bathroom, closets, hallways, stairways, but not including, cellars or attics, or service rooms or areas such as utility rooms, nor unheated areas such as enclosed porches. Earth-sheltered dwellings, designed as such, shall include the aggregate of area used for habitation as defined above whether or not all or a portion is below ground level.

Greenhouse nursery - a use primarily involved in horticulture, which may

include the sale of plants grown on the premises and goods and materials used in their production.

Group home - a type of group quarters, specifically a dwelling designed for a group of mentally and/or physically disabled persons living and cooking together in a single dwelling unit. The maximum number of occupants, including any residence staff personnel, shall not exceed 16. A group home shall be directly affiliated with a parent institution which provides the administration of the residents, who are required to reside on the premises to benefit from the service through the direction of a professional staff and for supervision of residents by full-time resident staff.

Group quarters - any dwelling or portion thereof which is designed or used for five or more persons unrelated to each other or to any family occupying the dwelling unit and having common eating facilities. Group quarters shall include, but not be limited to, lodging or boarding houses, fraternity and sorority houses and other quarters of an institutional nature. Such quarters must be associated with a parent religious, educational, charitable or philanthropic institution.

Guest room - a room which is intended, arranged or designed to be occupied or which is occupied by one or more guests put in which no provision is made for cooking and not including dormitories for sleeping purposes. Residential noncommercial guest rooms shall be within or attached to the principal residence and shall be part of the residential utility (sewer, electric, etc.) service line.

Home occupation or profession - a special type of accessory use. It is an occupation or profession which:

- (1) Is carried on only in a dwelling unit.
- (2) Is carried on by a member of the family residing in the dwelling unit.
- (3) Is clearly incidental and secondary to the use of the dwelling unit for residential purposes.

Hospital - a place for the diagnosis, treatment, or other care of humans and having facilities for in-patient care.

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

Kennel - any building or buildings and/or land used for the boarding, breeding or training of four or more dogs, cats, fowl or other small domestic animals at least 4 months of age and kept for purposes of profit, show, hunting or as pets but not to include riding staples or cases involving animals raised for agricultural purposes.

Landowner - the legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under lease to exercise the rights of the landowner, or other person having a propriety interest in land.

Loading space - an off-street space suitable for the loading or unloading of goods and having direct usable access to a street or alley.

Lot - a tract, plot or parcel of land which is or in the future may be, offered for sale, conveyance, transfer or improvement as one parcel, regardless of the method

or methods in which title was acquired. It may be vacant, devoted to a certain use, occupied by a structure or occupied by a group of structures; it is considered as a unit for a principal use.

Lot area - the area contained within the property lines of the individual parcels of land as shown on a land development plan, excluding any area within a street right-of-way, but including the area of any easement.

Lot coverage - a percentage which when multiplied by the lot area will determine the permitted building coverage area.

Lot width - the required distance between the side property lines measured along the street right-of-way line.

Medical clinic - any building or group of buildings occupied by medical practitioners and related services for the purpose of providing health services to people on an out-patient basis.

Mini-storage - a facility providing for the enclosed storage of household items, recreational equipment and/or classic or antique automobiles where said items are retained for direct use by their owner who shall have direct access thereto without intermediate handling by the proprietor of the facility.

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

Mobile home lot - a parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home, which is leased by the park owner to the occupants of the mobile home erected on the lot.

Mobile home park - a parcel of land under single ownership which has been planned and improved for the placement of mobile homes for nontransient use, consisting of two or more mobile home lots for nontransient use by persons unrelated to the owner or owners of such land whether operated for or without compensation.

Multi-family or two-family conversion - a multi-family or two-family dwelling constructed by converting an existing building into apartments for more than one family, without substantially altering the exterior of the building.

Nonconformity - a use, structure, lot or dimension in conflict with the regulations of this Chapter, (1) existing on the effective date of this Chapter, or (2) existing at any subsequent amendment of this Chapter, or (3) created by variance. Specifically, the following types of nonconformities are distinguished:

(1) *Nonconforming structure* - a structure or part of a structure manifestly not designed to comply with the applicable use provisions in this Chapter or any 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.

(2) *Nonconforming use* - a use, whether of land or of a structure, which does not comply with the applicable use provisions in this Chapter or any 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.

(3) *Dimensional nonconformity* - a lot or structure which is nonconforming because it is not in compliance with the extent-of-use or dimensional regulations of this Chapter.

Open area - a percentage which when multiplied by the lot area will determine the required unbuildable area of the lot. However, paved area is to be considered as part of the required open area.

Outdoor commercial recreational establishment - a use of open land for leisure time activities, such as a swimming pool, tennis court, riding stable, golf course or drive-in theater.

Owner - the owner of record of a parcel of land.

Parcel - a unit of land which meets all of the following criteria:

(1) Owned by the same owner or owners on June 6, 1988.

(2) Obtained by its owner or owners at the same time and by the same instrument (deed, will, etc.).

(3) Is contiguous. Land shall be considered contiguous even though separated by public or private roads.

Parking garage - a building where passenger vehicles may be stored for short-term, daily, or overnight off-street parking.

Parking lot - an open lot where passenger vehicles may be stored for short-term, daily, overnight off-street parking.

Parking space - an off-street space available for the parking of one motor vehicle and having direct usable access to a street or alley.

Paved area - a percentage which when multiplied by the lot area will determine the permitted open area which may be paved with an impervious surface (examples: driveways, parking areas, walkways).

Personal care boarding home - a type of group quarters, specifically a premises in which food, shelter and personal assistance or supervision are provided, on a State or Federal licensed basis, for a period exceeding 24 consecutive hours for at least four but not more than 16 persons who are over the age of 18, are not related to the operator and who are aged, blind, disabled, infirm or dependent but do not require skilled or intermediate nursing care.

Personal service business - personal service businesses shall include barber and beauty shops; radio and television repair; repair shops for home appliances, tools, bicycles, guns, locks, shoes and watches; tailor and dressmaking shops or any other similar establishment providing personalized service to customers.

Professional or business offices - an office which generally operates on an appointment basis. Business offices shall include advertising agencies, opticians

offices, personnel agencies, photographers studio, and travel and ticket agencies. Professional offices shall include offices of accountants, actuaries, architects, attorneys, clergy, dentists, designers, engineers, insurance and bonding agents, manufacturing representatives, physicians, real estate agents, teachers, and miscellaneous consulting services. Also included are offices of a governmental agency, social service organization, magisterial district judge, notary, public or private utility or political organization; or an office of a bank, savings and loan association, credit or loan company, collection agency, or stock and bond broker. [Ord. 2007-2]

Public - owned, operated or controlled by a government agency (Federal, State or local—including a corporation created by law for the performance of certain specialized governmental functions, and the Board of Education).

Public sewer - a municipal sanitary sewer system or a comparable common or package sanitary facility approved and permitted by the Pennsylvania Department of Environmental Protection. [Ord. 2007-2]

Public water - a municipal water supply system, or a comparable public water facility approved and permitted by the Pennsylvania Department of Environmental Protection. [Ord. 2007-2]

Recreational vehicle - tent trailers, campers, travel trailers, and motor homes which provide for eating and/or sleeping for one or more persons are classified as recreational vehicles. These vehicles or units shall have a fixed maximum width of 8 feet and a maximum length of 32 feet.

Retail store or shop - any shop or store whose primary activities involve the sale or lease of amusements and games, antiques, art, books, beverages, carpets and rugs, ceramics and glass, confections, drugs, dry goods, flowers, food, furniture, gifts, garden supplies, hobbies, hardware, household appliances, household pets and supplies, leather goods, musical supplies and equipment, notions, paint, periodicals, photographs and photographic equipment, radio-television and sound equipment, sporting and camping goods, stationery, tobacco, toys and wearing apparel. The wholesale distribution or manufacture of the foregoing products are not included herein and are permitted only as provided in other appropriate Sections of this Chapter. Among the uses not to be interpreted as retail stores or businesses are uses specifically provided for elsewhere in this Chapter including, but not limited to, gasoline and motor vehicle service stations, vehicular sales and rental, restaurants, business offices, professional offices, and lumber yard.

Roadway - the portion of a street right-of-way which is paved, improved, designated or intended for vehicular traffic. Sometimes referred to as “cartway.”

Rooming house - a single-family dwelling containing guest rooms, where lodging is provided, with or without meals, for compensation for not more than eight persons, in addition to the family unit. [Ord. 2014-2]

Satellite dish antenna - any accessory structure capable of receiving radio or television signals from a transmitter or transmitter relay located in planetary orbit.

School - a place of instruction, either public or private, licensed by the Department of Education, not to include a commercial school.

Screen planting - an evergreen vegetative material of sufficient height and

density to conceal from the view of property owners in adjoining zones the structures and uses on the premises on which the screen planting is located.

Service station - any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sales of motor vehicle accessories at retail only, but not including major repairing, body and fender work, painting, vehicular sales or rental or automatic car washes.

Setback - the required horizontal distance between a setback line and a property or street line.

Setback, front - the distance between the street right-of-way line and the front setback line projected the full width of the lot. Commonly called “front yard.”

Setback, rear - the distance between the rear lot line and the rear setback line projected the full width of the lot. Commonly called “rear yard.”

Setback, side - the distance between the side lot line and the side setback line projected from the front setback line to the rear setback line. Commonly called “side yard.”

Setback line - a line within a property and parallel to a property or street line which delineates the required minimum distance that must be provided between a structure or building and an adjacent street line and/or property line.

Sexual device - an artificial human penis, vagina or anus, or other device primarily designed, promoted, or marketed to physically stimulate or manipulate the human genitals, pubic area, perineum or anal area, including dildos, penisators, vibrators, vibrillators, penis rings and erection enlargement or prolonging creams, jellies, or other such chemicals or preparations.

Shopping center or mall - a group of stores planned and designed for the site on which it is built, functioning as a unit, with off-street parking provided on the property as an integral part of the unit.

Sign - a device for visual communication that is used to bring the subject to the attention of the public but not including, flags or other insignia of any government, government agency, or of any civic, charitable, religious, fraternal or similar organization.

(1) *Business* - a sign directing attention to a business or profession conducted on the same lot or, as incidental to a business, to products sold upon the same lot.

(2) *Directional* - a sign which directs people to: a community; an event of public interest; public uses and buildings; uses and buildings of service and charitable organizations; and uses and buildings of commercial nature; provided, that no advertising matter other than identifying name or symbol shall be contained on signs of this type.

(3) *Free-standing* - a sign supported by uprights or braces placed upon or in the ground and not attached to a building.

(4) *Portable* - a sign, of any material, with or without changeable type, lettering, illuminated or nonilluminated, mounted or transported on a vehicle, trailer or similar structure, with or without wheels, and not permanently

attached to the ground, often referred to as a “mobile sign.”

(5) *Projecting* - a sign which is attached to a building or other structure and extends beyond the line of a building or structure or beyond the surface of that portion of the building or structure to which it is attached.

Special exception - the granting of the right-to-use land or the right to deviate from stated requirements which the Zoning Hearing Board is permitted to authorize in specific instances listed this Chapter under the terms, procedures and conditions prescribed herein.

Specific anatomical areas - buttocks; female breasts below a point immediately above the top of the areola; or penis, vagina, anus, genitals, pubic area, perineum or anal area.

Specific sexual activities - (1) human male genitals in a discernibly turgid state of sexual stimulation or arousal; (2) sexual acts, normal or perverted, actual or simulated, involving a person or persons or a person(s) and an animal, including acts of masturbation, sexual intercourse, fellatio, cunnilingus, analingus or physical contact with a person's nude or partially denuded genitals, pubic area, perineum, and region, or, if such person be female, a breast; or (3) fondling or other erotic touching of specified anatomical areas.

Story - that portion of a building, excluding cellars, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.

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

Street - a public or private way, excluding driveways, which affords the principal means of access to abutting properties to be used by vehicular traffic or pedestrians. Includes street, avenue, boulevard, road, highway, freeway, lane, alley, viaduct and any other dedicated and accepted public right-of-way or private right-of-way.

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

Street line - a line defining the edge of a street right-of-way and separating the street from abutting property or lots. Commonly known as the street “right-of-way line.”

Structure - any assembly of materials constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground including, but not limited to, buildings, sheds, cabins, garages, and mobile homes. Unless noted otherwise, the following are excluded from the definition of structure for the regulatory purposes of this Chapter such that they shall not be permitted as principal or accessory structures: trailers designed or used for over the road hauling, wheeled vehicles other than mobile homes, junk vehicles, bodies or parts of vehicles, and any similar man-made object or enclosure

which constitutes a nuisance or represents a danger to public health or safety.
[Ord. 2005-1]

Accessory - a subordinate structure or a portion of the principal structure on a lot, the use of which is customarily incidental to that of the principal structure.

Permanent - a structure which cannot readily be removed.

Temporary - a structure which can readily be removed.

Swimming pool - any pool or open tank containing, or normally capable of containing, water to a depth at any point greater than 1½ feet. Farm ponds and/or lakes are not included, provided that swimming was not the primary purpose for their construction.

Television antenna - any device used for receiving video transmissions.

Use - the specific purpose for which land or a structure is designed, arranged, intended, occupied or maintained.

(1) *Accessory use* - a use customarily incidental and subordinate to the principal use or building and located on the same lot with this principal use or building.

(2) *Principal use* - the main or primary use of property or structures, measured in terms of net floor area, or where no net floor area exists, measured in terms of net land area.

Variance - the permission, granted by the Zoning Hearing Board, following a public hearing that has been properly advertised, for a particular modification to some regulation or provision of the zoning provisions of this Chapter which, if strictly adhered to, would result in an unnecessary hardship, and where the permission granted would not be contrary to the public interest, and would maintain the spirit and intent of this Chapter.

Wholesale establishment - a business devoted to the sale of commodities in quantity chiefly to retailers, other merchants, or industrial, institutional and commercial users mainly for resale or business use. Such commodities shall be limited to durable goods, sundries, dry goods and nonperishable items.

Yard - a prescribed open area on a lot, unobstructed from the ground upward except as modified in §27-401 of this Chapter.

(1) *Front* - an area bounded by the street line, front setback line and side property line.

(2) *Rear* - an area bounded by the rear property line, rear setback line and side property lines.

(3) *Side* - areas bounded by side property lines, and side, front and rear setback lines.

(Ord. 6/6/1988, §203; as amended by Ord. 2005-1, 11/7/2005, §1; by Ord. 2007-2, 12/17/2007; and by Ord. 2014-2, 8/4/2014, §§1-3)

Part 3

Zone Regulations

§27-301. Zones and Boundaries.

1. *Establishment of Zones.* The Borough of Lewisberry is divided into zones enumerated below and shown on the map entitled “Zoning Map of Lewisberry Borough,” which map is part of this Chapter.

- | | |
|---------------|--|
| A. R | Residential. |
| B. VC | Village Center. |
| C. H | Historic. |
| D. FW, FF, FA | Floodway, Flood Fringe, General Floodplain Area. |

2. *Boundaries of Zones.* Where uncertainty exists as to the boundaries of the zones as shown on the Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following municipality limits shall be construed as following municipality limits.
- D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- E. Boundaries indicated as approximately following the centerlines of streams, rivers or other bodies of water shall be construed to follow such centerlines.
- F. Boundaries indicated as parallel to or extensions of features indicated in paragraphs .A through .E shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- G. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or in circumstances not covered by paragraphs .A through .F, the Zoning Hearing Board shall interpret the district boundaries.

(Ord. 6/6/1988, §301)

§27-302. Use Regulations.

1. *Uses Permitted.* The uses permitted in the zones established by this Chapter, and the permitted extent of these uses, are as shown in §§27-303 through 27-306. The uses shown as permitted in each zone are the only uses permitted in that zone. Unless otherwise noted, the use or dimensional standards are the requirements for each use. However,

- A. Additional general provisions are set forth in Part 4.
- B. Modifications to the use or dimensional requirements are set forth in Part

4.

C. Standards for special exception uses are set forth in Part 6.

2. *All Other Uses.* Any use not specifically allowed elsewhere in this Chapter shall be allowed by special exception in the zone or zones where, and to the extent that, similar uses are permitted or allowed by special exception provided that said use meets the requirements for a special exception and does not constitute a public or private nuisance.

3. *Accessory Uses and Structures.* Accessory uses and structures shall be permitted in conjunction with the principal uses permitted by this Chapter and shall be further subject to the requirements for accessory uses and structures as set forth in §27-401.

4. *Uses With Nuisance Effect.* In no case is a use permitted which by reason of noise, dust, odor, appearance, or other objectionable factor creates a nuisance, hazard, or other substantial adverse effect upon the reasonable enjoyment of the surrounding property.

(Ord. 6/6/1988, §302)

§27-303. Residential Zone (R).

1. *Purpose.* The Residential Zone provides space for day to day living activities. The purpose of this Residential Zone is to provide for the orderly expansion of residential development, to provide for the public health and to prevent the overcrowding of land through the application of maximum housing densities, to provide standards which will encourage the installation of public facilities and the preservation of open space; and to exclude any activities not compatible with residential development.

2. *Uses by Right.* The following principal uses are permitted by right in the R zone:

- A. Single-family dwelling.
- B. Two-family dwelling.
- C. Crops.

3. *Uses by Special Exception.* The following principal uses shall be permitted as special exceptions when authorized by the Zoning Hearing Board. The Zoning Hearing Board shall hear and decide requests for such uses according to criteria established in Part 6 of this Chapter:

- A. Multi-family dwelling.
- B. Multi-family or two-family conversion.
- C. Mobile home park.
- D. Home occupation.
- E. Bed and breakfast inn.
- F. Day care home.
- G. Day care center.
- H. Domiciliary care home.
- I. Group home.

- J. Group quarters.
- K. Rooming house.
- L. Convalescent home, nursing home or hospital.
- M. Personal care boarding home.
- N. Medical clinic.
- O. Commercial school or school licensed by the Pennsylvania Department of Education.
- P. Funeral home.
- Q. Cemetery.
- R. House of worship.
- S. Park or other recreation area of a nonprofit nature.
- T. Greenhouse, horticultural nursery.
- U. Public buildings and facilities.
- V. Public utility building.
- W. Cluster development.

4. *Lot Area and Width.* Lot area and lot width not less than the following dimensions shall be provided for each principal use hereafter established in this zone:

		Public Water and Public Sewer	Public Water or Public Sewer	No Public Waste or Public Sewer
Minimum Lot Area:	All uses except two-family dwellings	8,000 sq. ft.	12,000 sq. ft.	40,000 sq. ft.
	Two-family dwellings	12,000 sq. ft.	18,000 sq. ft.	60,000 sq. ft.
Minimum Lot Width:	All uses except two-family dwellings	70 ft.	90 ft.	120 ft.
	Two-family dwellings	100 ft.	150 ft.	180 ft.

5. *Setbacks.* Each lot shall provide front, side and rear setbacks not less than the following:

- A. *Front setback* - 25 feet.
- B. *Each side setback* - 10 feet. Two-family dwellings shall be considered as one building for this purpose.
- C. *Rear setback* - 20 feet.

6. *Building Height.* The height limit for a main building shall be three stories, but not over 35 feet. The height limit for accessory buildings shall be two stories, but not over 25 feet. There shall be no height limitation for farm buildings.

7. *Lot Coverage.* Not more than 30 percent of the lot area may be covered by buildings or structures including accessory buildings.

8. *Open Area.* Not less than 70 percent of the lot area shall be devoted to open area as defined in this Chapter.

9. *Paved Area.* Not more than 15 percent of the lot area may be paved with an

impervious surface (examples: driveways, parking areas, walkways).

10. *Required Utilities.* Each principal use shall be provided with public sewer service if it is determined by the Borough Engineer that sewer capacity is available and that it is feasible to have the service extended to serve the principal use.

(Ord. 6/6/1988, §303)

§27-304. Village Center Zone (VC).

1. *Purpose.* The purpose of the Village Center Zone is to provide reasonable standards for the orderly development and the preservation of residential uses and local commercial services where a nucleus of such uses already exists, and where, due to the character of the area, such a mixture of uses is appropriate and compatible. The standards of this zone are designed to prevent the overcrowding of land by restricting maximum housing densities; to exclude any activities not compatible with the Village Center environment; to provide for the public convenience; to minimize traffic congestion and to otherwise fulfill the purposes and objectives of this Chapter.

2. *Uses by Right.* The following principal uses are permitted by right in the VC zone:

- A. Single-family dwelling.
- B. Two-family dwelling.
- C. Retail store or shop.
- D. Personal service business.
- E. Professional or business office.
- F. Eating establishment.
- G. Parking lot or parking garage.
- H. Funeral home.
- I. Indoor recreational establishment.
- J. Outdoor and vehicle sales, service, and/or repair.
- K. Public buildings and facilities.

3. *Uses by Special Exception.* The following principal uses shall be permitted as special exceptions when authorized by the Zoning Hearing Board. The Zoning Hearing Board shall hear and decide requests for such uses according to criteria established in Part 6 of this Chapter:

- A. Multi-family dwelling.
- B. Multi-family or two-family conversion.
- C. Day care home.
- D. Day care center.
- E. Personal care boarding home.
- F. Convalescent home, nursing home or hospital.
- G. Rooming house.
- H. Group quarters.
- I. Medical clinic.

- J. Home occupation.
- K. Mini-storage.
- L. Heavy storage service (examples: warehouse, building material yard).
- M. Service station or convenience store dispensing fuel.
- N. Kennel, animal hospital.
- O. Shopping center or mall.
- P. Outdoor commercial recreation establishment.
- Q. Public utility building.
- R. Research laboratory.
- S. Laundry and dry-cleaning establishment.
- T. Vehicle washing facility.
- U. Adult regulated facility.
- V. Commercial school or school licensed by the Pennsylvania Department of Education.
- W. Park and other recreation areas of a nonprofit nature.
- X. Junkyard, automobile dismantling plant.
- Y. *Light Industry*.
 - (1) Manufacturing and storage uses that do not:
 - (a) Cause dust, smoke, fumes, gas or offensive odors to be disseminated beyond the boundaries of the lot.
 - (b) Cause vibration beyond the boundaries of the lot.
 - (c) Cause noise exceeding that of street traffic at the front, side and rear lot lines.
 - (d) Cause glare observable from beyond the boundaries of the lot.
 - (2) Permitted light industrial uses include, but are not limited to:
 - (a) Printing and publishing.
 - (b) Soft drink bottling.
 - (c) Packaging products in the form of powder or other dry state.
 - (d) Lace manufacture.
 - (e) Sewing apparel.
 - (f) Assembly of electronic apparatus.
 - (g) Instrument making.
 - (h) Tool and die making.
 - (i) Cabinet making.
 - (j) Electroplating metals.
 - (k) Molding plastics.

4. *Lot Area and Width*. Lot area and lot width not less than the following dimensions shall be provided for each principal use hereafter established in this zone:

	Public Water and Public Sewer	Public Water or Public Sewer	No Public Water or Public Sewer
Minimum Lot Area	6,000 sq. ft.	9,000 sq. ft.	40,000 sq. ft.
Minimum Lot Width	60 ft.	90 ft.	120 ft.

5. *Setbacks.* Each lot shall provide front, side and rear setbacks not less than the following:

- A. *Front setback* - not less than adjacent buildings.
- B. *Each side setback* - 5 feet. Two-family dwellings shall be considered as one building for this purpose.
- C. *Rear setback* - 20 feet.

6. *Building Height.* The building height limit shall be three stories, but not more than 35 feet. The height limit for an accessory building shall be two stories, but not over 25 feet.

7. *Lot Coverage.* Not more than 60 percent of the lot area shall be devoted to buildings and structures including accessory buildings.

8. *Open Area.* Not less than 40 percent of the lot area shall be devoted to open area as defined in this Chapter.

9. *Paved Area.* Not more than 25 percent of the lot area shall be paved with an impervious surface (examples: driveways, parking areas, walkways).

10. *Required Utilities.* Each principal use shall be provided with public sewer service if it is determined by the Borough Engineer that sewer capacity is available and that it is feasible to have the service extended to serve the principal use.

(Ord. 6/6/1988, §304)

§27-305. Historic Zone (H).

1. *Purpose.* The purpose of this zone is to encourage the preservation of locally important architectural, historical, archaeological, and/or cultural elements of the man-made landscape as a living part of the community. In promoting this and the general purpose of this Chapter the specific intent of this zone is:

- A. To protect sites of historic and patriotic value.
- B. To promote responsible design within the Historic Zone.

2. *Abrogation and Greater Restrictions.* This Section is intended to create an overlay district within which all applications for zoning/use permits for either the purpose of alteration or demolition will be directed to the Lewisberry Borough Planning Commission for review and comment, as to the effect of the proposed action on the historic-architectural character of the zone. Notwithstanding, all of the regulations of the underlying zone shall remain in full force and effect. [Ord. 2007-2]

3. *Permitted Uses.* In the Historic Zone (H), the development and/or use of any land will be permitted provided that the development or uses adhere to all the requirements of the underlying zone.

4. *Approval by the Zoning Officer.* In addition to meeting the normal requirements for obtaining a zoning/use permit, all applications for alteration and/or

demolition of a building or structure shall be forwarded to Lewisberry Borough Planning Commission so that a meeting between the Commission and the applicant can be arranged. The meeting will deal with (A) building harmony, which is the relationship between the proposed alteration and the texture, size and material of the present structure or building; and (B) structural affect, which is the architectural historic character of the property. [Ord. 2007-2]

5. After notification that the above meeting has occurred or after a period not to exceed 30 days after the application has been forwarded by the Zoning Officer to the Lewisberry Borough Planning Commission, whichever comes first, the Zoning Officer may proceed in a manner similar to the rules in effect in the underlying zone to issue the permit. [Ord. 2007-2]

(Ord. 6/6/1988, §305; as amended by Ord. 2007-2, 12/17/2007)

§27-306. Floodplain Zones; Floodway (FW), Flood Fringe (FF), General Floodplain Area (FA).

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

A. Regulating uses, activities, and development which, acting alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities and frequencies.

B. Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding.

C. Requiring all those uses, activities, and developments that do occur in floodprone areas to be protected and/or floodproofed against flooding and flood damage.

D. Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

2. *Warning and Disclaimer of Liability.*

A. The degree of flood protection sought by the provisions of this Chapter is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Chapter does not imply that areas outside the floodplain zone, or that land uses permitted within this zone will be free from flooding or flood damages.

B. This Chapter shall not create liability on the part of Lewisberry Borough or any officer or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

3. *Establishment of the Floodplain Zones.*

A. *Description of Zones.*

(1) *Basis of Zones.* The various floodplain zones shall include areas subject to inundation by waters of the 100-year flood. The basis for the delineation of these zones shall be the Flood Insurance Study prepared by the

Susquehanna River Basin Commission for the federal insurance administration (FIA) dated November 17, 1982.

(a) The Floodway Zone (FW) is delineated for purposes of this Chapter using the criteria that a certain area within the floodplain must be capable of carrying the waters of the 100-year flood without increasing the water surface elevation of that flood more than 1 foot at any point. The areas included in this zone are specifically defined in Table 1 of the above referenced Flood Insurance Study and shown on the accompanying Flood Boundary and Floodway Map.

(b) The Flood-Fringe Zone (FF) shall be that area of the 100-year floodplain not included in the Floodway Zone. The basis for the outermost boundary of this zone shall be the 100-year flood elevations contained in the flood profiles of the above referenced Flood Insurance Study (FIS) and as shown on the accompanying Flood Boundary and Floodway Map.

(c) The General Floodplain Zone (FA) shall be that floodplain area for which no detailed flood profiles or elevations have been provided. Such areas are shown on the Flood Boundary and Floodway Map accompanying the FIS prepared for the FIA. Where the specific 100-year flood elevation cannot be determined for this area using other sources of data such as the U.S. Army Corps of Engineers, *Floodplain Information Reports*, U.S. Geological Survey, *Flood Prone Quadrangles*, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Borough.

B. *Overlay Concept.* The aforementioned floodplain zone shall be an overlay to the existing underlying zones as shown on the Official Zoning Map, and as such, the provisions for the floodplain zone shall serve as a supplement to the underlying zone provisions. Where there happens to be any conflict between the provisions or requirements of the floodplain zones and those of any underlying zone, the more restrictive provisions and/or those pertaining to the floodplain zones shall apply. In the event any provision concerning a floodplain zone is declared inapplicable as a result of any legislative or administrative actions of judicial desecration, the basic underlying zone provisions shall remain applicable.

C. *Inclusion in Zoning Map.* The boundaries of the floodplain zones are established as shown on the Flood Boundary and Floodway Map, dated November 17, 1982, prepared by the Susquehanna River Basin Commission for the Federal Insurance Administration. The said map is hereby incorporated into and made a part of the Official Zoning Map of Lewisberry Borough. A copy of said map shall be kept on file at the Borough office and be available for inspection during regular office hours.

D. *Zone Boundary Changes.* The delineation of any of the floodplain zones

may be revised by Borough Council where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, or other qualified agency or individual documents the advisability for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA) or its successor agency.

E. *Interpretation of Zone Boundaries.* Initial interpretations of the boundaries of the floodplain zones shall be made by the Zoning Officer. Should a dispute arise concerning the boundaries of the zone, the person questioning or contesting the location of the zone boundary shall be given a reasonable opportunity to present his case to the Borough Zoning Hearing Board and to submit his own technical evidence if he so desires. Should the person choose to seek a variance to the zoning regulations to accommodate his development, he must follow the procedures to present his case to the Zoning Hearing Board. Should the person choose to have the zone boundary changed to reflect more accurate flooding data, he must follow the procedures to present his case to Borough Council for a zoning amendment.

4. *Zone Provisions.* All uses, activities, land filling and development occurring within any Floodplain Zone shall be undertaken only in strict compliance with the provisions of this Chapter, the Floodplain Management Ordinance [Chapter 8] and with all other applicable codes and ordinances such as the Borough Zoning/Use Permit Ordinance. [Chapter 5, Part 2] [*Ord. 2007-2*]

(*Ord. 6/6/1988, §306; as amended by Ord. 2007-2, 12/17/2007*)

Part 4**General Provisions****§27-401. Accessory Uses and Structures.**

1. *Attached Structures.* A permanent-roofed accessory structure, attached to the principal building, is considered a part of the principal building for all regulatory purposes.

2. *Nonattached Structures.* A permanent accessory structure, standing apart from the principal structure, is permitted in rear yards as long as it is 10 feet from the property line. For all other requirements a nonattached structure is considered a part of the principal building.

3. *Fences and Walls.* In any zone no fence or wall (except a retaining wall or a wall of a building permitted under the terms of this Chapter) shall be erected to a height of more than 3 feet in a front yard area and more than 6 feet in any other yard area in any zone. Fences must be located at least 1 foot from the property line. However, fences comprised of vegetative materials must be located at least 3 feet from the property line.

4. *Satellite Dish Antenna.* Any accessory structure capable of receiving, for the sole benefit of the principal use, radio or television signals from a transmitter or transmitter relay located in planetary orbit shall be subject to the following constraints:

- A. Such devices shall not be placed within any required setback area.
- B. Satellite dish antenna shall be located in a side or rear yard only.
- C. No ground-mounted dish antenna on any residential lot can exceed an overall diameter of 12 feet or an overall height of 15 feet.
- D. Only one antenna is permitted per building lot.

(Ord. 6/6/1988, §401)

§27-402. Outdoor Swimming Pool Requirements.

Every outdoor swimming pool must conform to all applicable requirements of State law and in addition must be completely surrounded by a fence or wall not less than 4 feet in height, which shall be so constructed as not to have openings, holes or gaps larger than 6 inches in any dimension. An aboveground pool with a wall measuring at least 4 feet in height, above ground on all sides, is not required to have separate fencing. All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped. Farm ponds shall be excluded from the requirements of this Section. Nonfarm ponds shall meet all fencing requirements.

(Ord. 6/6/1988, §401)

§27-403. Setback Modifications.

1. *Front Setback of Buildings on Built-up Streets.* Where at least two adjacent buildings within 100 feet of a property are setback a lesser distance than required, the

lesser distance becomes the required minimum front setback for the property.

2. *Sight Distance.*

A. Proper sight lines must be maintained at all street intersections. Measured along the centerline of the street, there must be a clear sight triangle with sides as follows:

Street	Clear Sight Triangle Side
Major Thoroughfares	150 feet
Minor Streets	75 feet

B. No building or construction is permitted in this area except as follows:

- (1) Obstructions or plantings less than 3 feet in height.
- (2) If not obstructing view of traffic, post columns and trees not exceeding 1 foot in diameter.

3. *Setback on Corner Lots.* In the case of corner lots, two front yards shall be provided (the second of which will exist in lieu of one side yard).

4. *Accessory or Appurtenant Structures.* The setback regulations do not apply to:

- A. School bus shelters, telephone booths, minor utility structures or open fire escapes.
- B. Cornices, eaves, chimneys, steps and canopies.
- C. Articles of ornamentation or decoration.
- D. Retaining walls.

(Ord. 6/6/1988, §403)

§27-404. Height Modifications.

The height regulations do not apply to the following projections; provided, that the height of any such projection above its base shall not be greater than the shortest distance measured along a horizontal plane from such base to any lot line:

- A. Structures on buildings such as clock towers, cupolas, water tanks, and other mechanical appurtenances, if such structures, at any level, do not cover more than 25 percent of the roof on which they are located.
- B. Parapet walls or cornices used solely for ornamental purposes if not in excess of 5 feet in height.

(Ord. 6/6/1988, §404)

§27-405. Minimum Habitable Floor Area.

All dwelling units must conform to the minimum habitable floor area as follows:

- A. *Single-family dwellings* - 900 square feet per dwelling unit.
- B. *Two-family dwellings* - 600 square feet per dwelling unit.
- C. *Multi-family dwellings* - 500 square feet per dwelling unit.

(Ord. 6/6/1988, §405)

§27-406. Unenclosed Storage.

1. *Recreational Vehicles, Trailers, Trucks and Boats.* In any zone unregistered vehicles, recreational vehicles and trailers, and trucks with a vehicle rating over 1 ton shall not be stored for a period in excess of 3 days in the area between the street line and the line formed by the front wall of the principal building extended the full width of the lot. On-street parking of unregistered vehicles, recreational vehicles and trailers, and trucks with a vehicle rating over ¾ ton is prohibited.

2. *Outdoor Stockpiling.* In all zones, no outdoor stockpiling of any material or outdoor storage of trash shall be permitted in front, side, or rear yards. The provisions of this Section shall not prohibit the storage of fuel for heating purposes, such as wood or coal. [Ord. 2005-1]

3. *Refuse.* See Borough Refuse Ordinance [Chapter 20, Part 1].
(Ord. 6/6/1988, §406; as amended by Ord. 2005-1, 11/17/2005, §2)

§27-407. Sale of Agricultural Products.

The sale at retail of agricultural products is permitted in any zone on the property where they were produced.

(Ord. 6/6/1988, §407)

§27-408. Outdoor Signs.

1. *Signs Permitted and Extent-of-Use.*

A. *Drive-in Business.* For a drive-in business, business signs are permitted as long as their number does not exceed two per street frontage and their combined area does not exceed 30 square feet per street frontage.

B. *Other Uses.* For other uses, one sign is permitted on each street frontage of a lot for each occupancy or purpose and an additional sign for each occupancy or purpose is permitted for every 200 feet of street frontage or major fraction thereof all in accordance with paragraph .E. However, for business signs, any number of signs are permitted as long as their total area does not exceed the maximum under paragraph .E.

C. *All Uses.* For all uses, an advertising and a business sign must be at least 60 feet apart, and no sign exceeding 30 square feet in area may be located within 75 feet of the Residential Zone.

D. *Determination of Size.* The size of the sign shall refer to the area of the sign facing, including any border framing or decorative attachments. In the case of open signs made up of letters, figures and designs the space between such letters, figures and designs shall be included. A back-to-back sign may be erected. In that event, size of the sign shall be determined based on the dimensions of one sign face, not both faces.

E. *Type, Location and Size of Sign.*

Type of Sign	Where Permitted	Maximum Size
Traffic	any zone	–

Type of Sign	Where Permitted	Maximum Size
Home occupation or home profession	any zone	2 sq. ft.
Trespassing	any zone	2 sq. ft.
Utility	any zone	2 sq. ft.
For sale, for rent, sold and rented	any zone	6 sq. ft.
Work sign of builders, painters and other artisans performing work on the premises	any zone	6 sq. ft.
Directional	any zone	6 sq. ft.
Identification and information of churches, schools, and other nonprofit institutions	any zone	20 sq. ft.
Apartment development, Sub-division	Where use is permitted	20 sq. ft.
Temporary sign for sale of agricultural and horticultural products and for construction projects	any zone	12 sq. ft.
Business	VC zone	30 sq. ft.
Advertising	VC zone	300 sq. ft.
Shopping center	VC zone	100 sq. ft.

2. *Setback of Signs.*

A. *Attached Signs.* No portion of an attached sign may extend beyond the building setback line.

B. *Free-Standing Signs.* No portion of a free-standing sign may be closer to a street right-of-way line than 15 feet, except for a sign less than 3 feet in height.

3. *Projection of Signs.* No sign may project:

A. Over a public sidewalk area.

B. Over a public highway or street unless specifically authorized by other Borough or State regulations.

C. Above the roof of a building.

4. *Illumination of Signs.*

A. Flashing intermittent and rotating lights are permitted by special exception only in the Village Center Zone.

B. A sign may be illuminated only if the lighting is so screened that it is not directed or reflected toward any adjacent residence, or so it does not obstruct the vision of motorists.

C. Signs which are illuminated in the colors red, green, or amber, either by

colored bulbs or tubing, or in high reflection by the use of special preparations such as fluorescent paint or glass, may not be located within a radius of 200 feet of a highway traffic light or similar safety device or from the center of any street intersection.

5. *Buntings and Pennants.* Buntings and pennants are permitted only to announce the opening of a new business or industry, or in connection with a civic event, and must be removed within 7 days after the event.

6. *Temporary Signs.*

A. A temporary sign for sale of agricultural and horticultural products may be erected for a period not exceeding 60 days.

B. A temporary sign for a construction project may be erected and maintained for as long as the project is under construction.

C. A temporary sign such as those advertising activities of churches and nonprofit organizations may be erected for a period not exceeding 60 days.

7. *Portable Signs.* Portable signs shall be permitted in the Residential Zone only when associated with a nonprofit organization, and in the Village Center Zone. Portable signs are subject to the following requirements:

A. A sign permit must be obtained from the Borough Zoning Officer.

B. The sign shall not be located on the lot for more than 30 days within a 90-day period.

C. Only one portable sign shall be permitted per lot.

D. The sign may be illuminated only by indirect lighting.

E. The maximum size permitted shall be 30 square feet.

F. The placement of such a sign shall not interfere with traffic or with sight distance at street intersections and accesses to public rights-of-way.

8. *Construction and Maintenance.* Signs must be constructed of durable materials, maintained in good condition, and not allowed to become dilapidated.

9. *Termination of Enterprise.* Upon termination or abandonment of a commercial or industrial use, all signs pertaining to the enterprise must be removed.

(Ord. 6/6/1988, §408)

§27-409. Parking.

1. *Size of Parking Space.* The parking space must have an area of not less than 200 square feet, exclusive of passageways and driveways appurtenant to the space and giving access to it. Where five or more parking spaces are required, the total parking area including passageways and driveways must average 300 square feet per required parking space.

2. *Spaces Required.* Off-street parking spaces must be provided for each building erected or enlarged in accordance with the following schedule:

Type of Use	Minimum of One Parking Space for Each
Residential Dwelling	One-half dwelling unit (i.e., 2 spaces per dwelling unit)
Rooming House and Bed and Breakfast Inn [Ord. 2014-2]	Guest room
Hotel, Motel, Tourist Home	Guest sleeping room
Office Building	300 sq. ft. of gross floor area
Retail Store or Shop	200 sq. ft. of gross floor area
Eating Establishments	4 seats
Bowling Alley	One-half lane (i.e., two spaces per lane)
Other Recreational Establishments	100 sq. ft. of gross floor area
Automobile Repair, Service Station	400 sq. ft. of gross floor area and ground area devoted to repair and service facilities
Commercial School or School Licensed by Pennsylvania Department of Education	Staff person plus one for each five students to be served by the facility.
Other Commercial Buildings	400 sq. ft. of gross floor area
Hospital, Sanitarium	One-half bed (i.e., two spaces per bed)
Auditorium, Church, Theater and Other such Places of Public Assembly	Two seats.
Industrial and Heavy Commercial Establishments	Two employees on major shift but at least one space for each 5,000 sq. ft. of gross floor area
Funeral Home	100 sq. ft. of gross floor area.
Clubs, Lodges and Other Similar Places	100 sq. ft. of gross floor area

3. *Location.* The parking area must be on the same or nearby premises. If on nearby premises:

A. The nearest point of the parking lot shall be not further than the following distances to the nearest point of the property served: 100 feet in the case of a commercial use, 200 feet in the case of a residential use, and 300 feet in the case of an industrial use.

B. The parking area must remain under control of the owner or operator of the use to which the parking area is appurtenant.

4. *Layout.* Parking areas must be arranged so there will be no need for motorists to back over.

A. Local streets, except in the case of residential uses.

B. Major thoroughfares.

5. *Parking Area Adjacent to Street.* For multi-family and nonresidential uses, where a parking area or other area open to movement of vehicles abuts the right-of-way

of a public street, a pipe railing, post and chain barricade, raised curbs or equally effective devices satisfactory to the Borough must line the public right-of-way except at access points so that parked vehicles will not extend into the street right-of-way.

6. *Paving.* For commercial, industrial and multi-family residential uses, all required parking areas and driveways must be paved with concrete or bituminous paving material.

(Ord. 6/6/1988, §409; as amended by Ord. 2014-2, 8/4/2014, §4)

§27-410. Loading.

1. *Size; Surfacing.* The loading space must be not less than 12 feet wide and 25 feet long. It must be surfaced with a bituminous or concrete paving material.

2. *Spaces Required.* Off-street loading spaces must be provided for each building erected or enlarged in accordance with the following schedule:

Type of Use	Number of Loading Spaces
Manufacturing, storage, display or sale of goods, hospitals and sanitariums	One space for a gross floor area of 5,000 to 25,000 space feet and one additional space for each 10,000 square feet of gross floor area in excess of 25,000 square feet.
Offices, hotels, theaters or similar uses	One space for a gross floor area of from 20,000 to 100,000 square feet and one additional space for each 40,000 square feet of gross floor area in excess of 100,000 square feet.

3. *Layout.* The loading area must be arranged so that there will be no need for motorists to back over public rights-of-way and must not be located in the front yard area.

(Ord. 6/6/1988, §410)

§27-411. Driveways.

1. *Width.* Within 10 feet of the street right-of-way, driveways may not exceed 35 feet in width.

2. *Number.* The number of driveways may not exceed two per lot on any one street frontage. The Zoning Hearing Board may grant permission by special exception for additional driveways where required to meet exceptional circumstances and where frontage of unusual length exists.

3. *Location.* Driveways may not enter a public street:
- A. Within 40 feet of the street right-of-way line of an intersecting street.
 - B. Within 5 feet of a fire hydrant.
 - C. Within 25 feet of another access drive on the same property.

4. *Paving.* All driveways must be surfaced with a bituminous or concrete paving material.

5. *Sight Distances; Slopes; Cuts.* A driveway must be located in safe relationship to sight distance and barriers to vision. The drive may not exceed a slope of 5 percent within 25 feet of the street right-of-way line. Where a drive enters a bank through a cut,

unless a retaining wall is used, the shoulders of the cut may not exceed 50 percent in slope within 25 feet of the point at which the drive intersects the street right-of-way. The height of the bank must not exceed 3 feet within 10 feet of the street right-of-way line.

(Ord. 6/6/1988, §411)

§27-412. Screens and Buffers.

Where an industrial or commercial use is proposed in the VC zone and it abuts a Residential Zone, except for street or alley frontage:

A. A fence, screen or buffer planting acceptable to the Borough is required to be erected in the Village Center Zone to screen from view (in the Residential Zone) the industrial or commercial use.

B. The space along the side lot line in the Village Center Zone abutting a Residential Zone for 20 feet in depth may not be used for commercial or industrial operations. This area must be suitably landscaped and maintained.

(Ord. 6/6/1988, §412)

§27-413. Drainage.

1. *Lot Drainage.* Lots shall be laid out and graded to provide positive drainage away from new and existing buildings and on-site sewage disposal facilities.

2. *Nearby Existing Facilities.* Where adequate existing storm sewers are readily accessible, the developer must connect his storm water facilities to these existing storm sewers.

3. *Open Drainageways.* When open drainageways are used for the disposal of stormwater, the Borough Engineer shall review the design of such open drainageways in relation to the following:

A. *Safety.* Steep banks and deep pools shall be avoided.

B. *Erosion.* Adequate measures shall be taken, such as seeding; sodding, paving, or other measures as necessary to prevent the erosion of banks and the scouring of the channel.

C. *Stagnation.* Design of open drainageways shall not create stagnant pools or swampy areas.

D. *Approval.* Drainage structures for areas of more than ½ mile square shall be subject to approval by the Pennsylvania Department of Environmental Protection. [Ord. 2007-2]

4. *Drainage Upon Adjacent Properties.* In the design of storm drainage facilities, special consideration must be given to preventing excess runoff onto adjacent properties.

5. *Drainage Upon Streets.* In order to prevent improper surface water drainage upon streets, each building erected, structurally, altered, or relocated, and its driveways, must be at a grade in satisfactory relationship:

A. With the established street grade.

B. With the existing street grade where none is established.

6. *Obstruction to Drainage Prohibited.* The damming, filling or otherwise interfering with the natural flow of a surface watercourse is not permitted without approval of the Borough Council and the Pennsylvania Department of Environmental Protection. [Ord. 2007-2]

(Ord. 6/6/1988, §413; as amended by Ord. 2007-2, 12/17/2007)

§27-414. Illumination.

Where a use involves exterior lighting, the lighting must be so located and shielded that no objectionable illumination or glare is cast upon adjoining properties.

(Ord. 6/6/1988, §414)

§27-415. Demolition.

Demolition of any structure must be completed within 3 months of the issuance of a permit. Completion consists of tearing the structure down to grade, filling any resulting cavity to grade and removing all resulting materials from the lot. A structure may be partly demolished only if a building remains and the demolition of the part is completed as required in the previous sentence. All evidences of the structure which was demolished must be removed from the exterior surfaces of the remaining building.

(Ord. 6/6/1988, §415)

§27-416. Buildings Under Construction.

If the construction is completed by 1 year after the effective date of this Chapter, a building, the foundation of which was completed before the effective date, may be constructed without being bound by the requirements of this Chapter. In like manner, a building, the foundation of which was completed before an amendment, may be constructed if the construction is completed within 1 year after the amendment.

(Ord. 6/6/1988, §416)

§27-417. Division of Built-On Lots.

No lot may be formed from part of a lot occupied by a building unless each newly-created lot will meet all the applicable provisions of this Chapter.

(Ord. 6/6/1988, §417)

§27-418. Lots of Record.

On a lot held in single and separate ownership on the effective date of this Chapter, or any amendment thereto, which does not fulfill the regulations for the minimum lot area and/or lot width for the zone in which it is located, a building may be erected, altered and used and the lot may be used for a conforming (permitted) use providing the setback requirements are not less than the minimum specified herein for the zone in which the lot is located.

(Ord. 6/6/1988, §418)

§27-419. Nonconformities.

1. *Continuance.*

A. Except as otherwise provided in this Section and §27-627, the lawful use

of land or buildings existing at the date of the adoption of this Chapter may be continued, although such use of land or building does not conform to the use regulations specified by this Chapter for the zone in which such land or building is located.

B. Except as otherwise provided in this Section and §27-627, any dimensional nonconformities existing at the date of the adoption of this Chapter may be continued.

2. *Replacement.*

A. A nonconforming use may be replaced only by a conforming use.

B. A dimensional nonconformity may be replaced only in conformance with the provisions of this Chapter.

3. *Restoration.* If any nonconformity is destroyed in part or in whole by reason of windstorm, fire, explosion, or other acts of God or a public enemy, the nonconformity may be rebuilt, restored or repaired to the extent of the nonconformity prior to destruction. Nothing in this Chapter shall prevent the strengthening or restoring to a safe condition any wall, floor or roof which has been declared unsafe.

4. *Abandonment.* A nonconforming use shall be adjudged as abandoned when there occurs a cessation of any such use or activity by an apparent act or failure to act on the part of the tenant or owner to reinstate such use within a period of 1 year from the date of cessation or discontinuance. Such use shall not thereafter be reinstated and the structure shall not be reoccupied except in conformance with this Chapter.

5. *Reversion.* No nonconformity shall, if once changed to conform to the regulations of this Chapter, be changed back again to a nonconformity.

6. *Zone Changes.* Whenever the boundaries of a zone shall be changed so as to transfer an area from one zone to another zone of a different classification, the foregoing provisions shall also apply to any nonconforming uses or dimensional nonconformities existing therein or created thereby.

7. *Identification and Registration.* Nonconforming uses and nonconforming structures shall be identified and registered by the Zoning Officer.

(Ord. 6/6/1988, §419)

Part 5**Zoning Hearing Board****§27-501. Powers and Duties; General.**1. *Membership of Board.*

A. The membership of the Board shall, upon the determination of the Borough Council, consist of either three or five residents of the Borough appointed by the Borough Council. The terms of office of a three member board shall be 3 years and shall be so fixed that the term of office of one member shall expire each year. The terms of office of a five member board shall be 3 years and shall be so fixed that the term of office of no more than two members shall expire each year and of the initial appointments of the two additional members, one shall be appointed for a 1-year term and one shall be appointed for a 2-year term. If a three member board is changed to a five member board, the members of the existing three member board shall continue in office until their term of office would expire under prior law. The Borough Council shall appoint two additional members to the Board with terms scheduled to expire in accordance with the provisions of this subsection. 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, except that no more than one member of the Board may also be a member of the Borough Planning Commission.

B. A five member Board shall not be changed to a three member Board except upon an affirmative vote on the question by a majority of the electors of the Borough voting thereon at a referendum held at the municipal or general election prior to a year in which the terms of two of the members on the Board expire.

2. *Organization of Board.* The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board, but where two members are disqualified to act in a particular matter, the remaining member may act for the Board. 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 §27-502. 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 and shall submit a report of its activities to the Borough Council once a year.

3. *Powers.* The Zoning Hearing Board has the following powers:

A. *Interpretation.* To interpret any provision of this Chapter including zone boundaries.

B. *Special Exceptions.* To hear and decide special exceptions upon which the Board is required to pass under this Chapter as per §27-504 following.

C. *Appeals.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Officer in

the enforcement or interpretation of this Chapter.

D. *Variances*. To authorize, upon application, in specific cases a variance from the terms of this Chapter as per §27-503 following.

E. *Rehearings*. To grant the rehearing of a case if it appears there has been a substantial change in the facts as evidence of the case as presented at the initial hearing.

F. *Challenge to the Validity of this Chapter or Map*. The Board shall hear challenges to the validity of this Chapter or map except as indicated in the Pennsylvania Municipalities Planning Code, §§1003 and 1004 (1)(b), 53 P.S. §§11003, 11004(1)(b). In all such challenges the Board shall take evidence and make a record thereon as provided in §27-502. At the conclusion of the hearing, the Board shall decide all contested questions and shall make findings on all relevant issues of fact which shall become part of the record on appeal to the court.

G. *Unified Appeals*. Where the Board has jurisdiction over a zoning matter, the Board shall also hear all appeals which an applicant may elect to bring before it with respect to any Borough ordinance or requirement pertaining to the same development plan or 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 §27-502. 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.

3. In exercising the powers above, the Board, in conformity with the provisions of this Chapter, may reverse, affirm, or modify the order, requirement, decision, or determination appealed from or requested, and may make any order, requirement, decision or determination as ought to be made.

4. *Board Calendar*. Each application or appeal filed in the proper form with the required data must be numbered serially and be placed upon the calendar of the Board by the Secretary. Applications and appeals must be assigned for hearing in the order in which they appear on the calendar. However, for good reason, the Board may order the advance of the application or appeal. The Board must fix a reasonable time for hearings.

(Ord. 6/6/1988, §501)

§27-502. Public Hearings.

1. Notice; Conduct of Meeting.

A. Notice shall be given to the public, the applicant, the Zoning Officer, such other persons as the Borough shall designate by ordinance and to any person who has made timely request for the same. Notices shall be given at such time and in such manner as shall be prescribed by ordinance or, in the absence of ordinance provision, by rules of the Board.

B. The Borough Council may establish reasonable fees, based on cost, to be paid by the applicant and by persons requesting any notice not required by ordinance. In addition to the notice provided herein, notice of said hearing shall be conspicuously posted on the affected tract of land.

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, but the parties may waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.

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

E. 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 unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings with any party or his representative unless all parties are given an opportunity to be present.

2. *Representation; Statements.*

A. Parties to the hearings 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 the 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.

B. 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.

C. Statements are to be made in the following order or as the Chairman may direct:

- (1) Applicant or appellant.
- (2) Zoning Officer and other officials.
- (3) Any private citizen.

D. The applicant or appellant must be given an opportunity for rebuttal.

3. *Witnesses.* 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.

4. *Decision Procedure.*

A. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*, or of any 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 of findings is final, the Board shall make his report and recommendations available to the parties 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 45 days after the decision of the hearing officer. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within 60 days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as herein-above provided, the Borough shall give public notice of said decision within 10 days in the same manner as provided in subparagraph .A of this Section. Nothing in this subsection shall prejudice the right of any party opposing the application to urge that such decision is erroneous.

B. 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 no 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.

C. Whenever the Board imposes a condition or conditions with respect to the granting of an application or appeal, this condition must be stated in the order of the Board and in the permit issued pursuant to the order by the Zoning Officer. This permit remains valid only as long as the conditions or conditions upon which it was granted or the conditions imposed by this Chapter are adhered to.

5. *Records.* The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings, and a transcript of the proceedings and copies of graphic or written material received in evidence shall be made available to any party at cost.

(Ord. 6/6/1988, §502)

§27-503. Variances.

1. Filing of Variance.

A. An application may be made to the Zoning Hearing Board for a variance where it is alleged that the provisions of this Chapter inflict unnecessary hardship upon the applicant. The application must be on a form provided for that purpose by the Zoning Officer. It must be filed with the Board and copies given to the Zoning Officer and Borough Planning Commission. The applicant must provide all the information requested on the form, together with any other information and data that may be required to advise the Board of the variance, whether such information is called for by the official form or not.

B. Unless otherwise specified or extended by the Board, a variance authorized by it expires if the applicant fails to obtain a zoning/use permit or use certificate within 6 months from the date of authorization of the variance. [Ord. 2007-2]

2. *Referral to Planning Commission.* All applications for a type-of-use variance shall be referred to the Planning Commission for a report.

3. *Standards for Variance.* Where there is unnecessary hardship, the Board may grant a variance in the application of the provisions of this Chapter; provided, that the

following findings are made where relevant in a given case:

A. There are unique physical circumstances or conditions, including (1) irregularity, narrowness, or shallowness of lot size or shape, or (2) exceptional topographical or other physical conditions peculiar to the particular property, and is not due to circumstances or conditions generally created by the provisions of this Chapter in the neighborhood or zone in which the property is located.

B. Because of these physical circumstances or conditions, the property cannot reasonably be used in strict conformity with the provisions of this Chapter.

C. The unnecessary hardship is not financial in nature and has not been created by the appellant.

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

E. 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.

4. *Conditions.* In granting any variance, the Board may attach such reasonable conditions and safeguards as it considers necessary to implement the purposes of this Chapter.

(*Ord. 6/6/1988, §503; as amended by Ord. 2007-2, 12/17/2007*)

§27-504. Special Exceptions.

1. *Filing of Special Exceptions.* For any use permitted by special exception, a special exception must be obtained from the Zoning Hearing Board. In addition to the information required on the zoning/use permit application, the special exception application must show: [*Ord. 2007-2*]

A. Ground floor plans and elevations of proposed structures.

B. Names and addresses of adjoining owners.

C. Unless otherwise specified or extended by the Zoning Hearing Board a special exception authorized by the Board expires if the applicant fails to obtain, where required to do so, a zoning/use permit or use certificate within 6 months of the date of the authorization of the special exception. [*Ord. 2007-2*]

2. *Temporary Special Exceptions.* A temporary special exception must be obtained from the Zoning Hearing Board for any nonconformity which is or will be seasonal or is or will be in the public interest. The Zoning Hearing Board may grant a temporary special exception for a nonconforming use or structure, existing or new, which:

A. Is beneficial to the public health or general welfare.

B. Is necessary to promote the proper development of the community.

C. Is seasonal in nature.

D. The temporary special exception may be issued for a period not exceeding 1 year, and may be renewed for an aggregate period not exceeding 3 years. The nonconforming structure or use must be completely removed upon the expiration of the special exception without cost to the Borough.

3. *Referral to Planning Commission.* All applications for a special exception shall be referred to the Borough Planning Commission for a report.

4. *Conditions.* The Zoning Hearing Board in passing upon special exception applications, may attach conditions considered necessary to protect the public welfare and the Comprehensive Plan, including conditions which are more restrictive than those established for other uses in the same zone.

5. *Application of Extent-of-Use Regulations.* The extent-of-use regulations as set forth in this Chapter must be followed by the Zoning Hearing Board. Where no extent-of-use regulations are set forth for the particular use, the Board must impose extent-of-use requirements as necessary to protect the public welfare and the Comprehensive Plan.

6. *General Standards.* A special exception may be granted when the Zoning Hearing Board finds from a preponderance of the evidence produced at the hearing that:

A. The proposed use, including its nature, intensity and location, is in harmony with the orderly and appropriate development of the zone.

B. That adequate water supply, sewage disposal, storm drainage and fire and police protection are or can be provided for the use.

C. That the use of adjacent land and buildings will not be discouraged and the value of adjacent land and buildings will not be impaired by the location, nature and height of buildings, walls and fences.

D. That the use will have proper location with respect to existing or future streets giving access to it, and will not create traffic congestion or cause industrial or commercial traffic to use residential streets.

E. That the specific standards set forth for each particular use for which a special exception may be granted have been met.

F. The applicant for a special exception shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact which are to be determined by the Zoning Hearing Board.

7. *Special Standards.* In addition to the general standards for all special exceptions as contained in subsection .6, the specific standards for particular uses as listed in Part 6 must be met prior to the granting of a special exception.

(Ord. 6/6/1988, §27-504; as amended by Ord. 2007-2, 12/17/2007)

Part 6**Standards for Special Exception Uses****§27-601. Requirement of Specific Standards.**

In addition to the general standards for all special exceptions as contained in §27-504.6, the specific standards for the particular uses allowed by special exception are set forth in this Part. These standards must be met prior to the granting by the Zoning Hearing Board of a special exception for such uses in applicable zones.

(Ord. 6/6/1988, §601)

§27-602. Adult Regulated Facility.

In the VC zone and subject to the requirements of that zone except as herein modified and provided:

A. An adult regulated facility shall not be located within 200 feet of any residential zone or use.

B. An adult regulated facility shall not be located within 1,000 feet of any church, school, library, park, playground, day care center, or any other adult regulated facility.

C. No materials, merchandise, film, or service offered for lease, loan or for view upon the premises shall be exhibited, displayed; and no sale materials, merchandise, film or other offered items of service shall be visible from outside the building or structure.

D. Any building or structure used and occupied as an adult regulated facility shall be windowless or have an opaque covering over all windows or doors of any area in which materials, merchandise, film or service are exhibited or displayed; and no sale materials, merchandise, film or other offered items of service shall be visible from outside the building or structure.

E. No sign shall be erected upon the premises depicting or giving a visual representation of the type of materials, merchandise, film or service offered therein.

F. Each and every entrance to the structure shall be posted with a notice that the use is an adult regulated facility that persons under the age of 18 are not permitted to enter and warning all others that they may be offended upon entry.

(Ord. 6/6/1988, §602)

§27-603. Bed and Breakfast Inn.

In the R zone and subject to the requirements of that zone except as herein modified and provided:

A. Maximum guest stays shall be limited to 7 days.

B. Breakfast shall be the only meal served to overnight lodgers.

C. The owner and/or manager of the bed and breakfast inn shall be a permanent resident in the single-family dwelling.

D. Each guest room shall have a habitable area of at least 100 square feet.

E. A minimum of one off-street parking space per guest room shall be provided in addition to the required parking for the dwelling unit. Failure to use the off-street parking will result in revocation of the special exception.

F. One sign may be erected on the property. The maximum size shall be 2 square feet and it may be illuminated only by indirect lighting.

G. The inn must comply with local regulations including, but not limited to, fire, health, and building codes.

H. Bed and breakfast operations shall be conducted so as to be clearly incidental and accessory to the primary use of the site as a single-family dwelling.

(*Ord. 6/6/1988*, §603; as amended by *Ord. 2014-2*, 8/4/2014, §5)

§27-604. Cemetery.

In the R zone and subject to the requirements of that zone except as herein modified and provided:

A. All burial plots or facilities shall be located at least 50 feet from all property or street lines.

B. Assurances must be provided that water supplies of surrounding properties will not be contaminated by burial activity within the proposed cemetery.

C. No burial plots or facilities are permitted on floodplain land.

D. Buffers and screens shall be provided as necessary to adequately protect neighboring properties. This includes, but is not limited to, fences, walls, planting and open spaces.

E. Pet cemeteries must meet all of the above applicable requirements.

(*Ord. 6/6/1988*, §604)

§27-605. Cluster Development.

1. In the R zone and subject to the requirements of that zone except as herein modified and provided:

A. In the case of residential developments of 10 acres or more, an added degree of flexibility in the placement, bulk and inter-relationship of the buildings and uses within the development may be approved by Borough Council. The overall intensity of use and density of population shall be maintained while providing for new or additional design concepts. The gross area requirement may be waived if the proposed tract abuts an existing cluster development, is within an appropriate zoning classification and will enable a compatible extension of the existing development. The following guidelines shall be followed:

(1) Minimum lot area and width, lot coverage, open area and paved area requirements may be waived for individual lots. These standards shall be applied to the total tract area, exclusive of highway and utility rights-of-way, to determine the total number of permitted dwelling units.

(2) Setbacks and building height shall remain as required in §§27-303.5 and 27-303.6.

(3) Public water and public sewer are required.

(4) Provisions for the future maintenance of all common areas including, but not limited to, parking and recreation shall be explicitly provided with the proposed project. The provisions and any agreements, such as by-laws for a

[Text continued on p. 27-47]

property owners association, shall be subject to the approval of Borough Council.

(5) These provisions shall not apply to mobile home parks.

2. All other provisions of this Chapter and any other applicable ordinance of the Borough shall apply to cluster developments.

(*Ord. 6/6/1988, §605*)

§27-606. Commercial School or School Licensed by the Pennsylvania Department of Education.

In the R or VC zone and subject to the requirements of the zone in which located except as herein modified and provided:

A. *Lot area* - 1 acre minimum.

B. *Lot width* - 100 feet minimum.

C. Access shall be via an arterial or collector street as designated in the Borough's Comprehensive Plan.

(*Ord. 6/6/1988, §606*)

§27-607. Convalescent Home, Nursing Home or Hospital.

In the R or VC zone and subject to the requirements of the zone in which located except as herein modified and provided:

A. *Lot area* - 1 acre minimum.

B. *Lot width* - 150 feet minimum.

C. *Setbacks* - all buildings shall be located at least 50 feet from all property or street lines.

D. Access shall be via an arterial or collector street as designated in the Borough's Comprehensive Plan.

E. Public sewer and public water approved by the Pennsylvania Department of Environmental Protection must be utilized. [*Ord. 2007-2*]

F. Buffers and screens shall be provided as necessary to adequately protect neighboring properties. This includes, but is not limited to, fences, walls, plantings and open spaces.

(*Ord. 6/6/1988, §607; as amended by Ord. 2007-2, 12/17/2007*)

§27-608. Day Care Center.

In the R or VC zone and subject to the requirements of the zone in which located except as herein modified and provided:

A. The facility shall obtain a certificate of registration from the Pennsylvania Department of Public Welfare.

B. Outdoor play areas for children must be located in a side or rear yard and shall be sufficiently enclosed so as to protect the neighborhood from inappropriate noise and to provide for the health and safety of the children as determined by the Zoning Hearing Board.

C. At least one parking space for each employee plus one space for each four

persons to be served by the facility shall be provided.

D. Access shall be via an arterial or collector street as designated in the Borough's Comprehensive Plan.

(Ord. 6/6/1988, §608)

§27-609. Day Care Home.

In the R or VC zone and subject to the requirements of the zone in which located except as herein modified and provided:

A. The facility shall obtain a certificate of registration from the Pennsylvania Department of Public Welfare.

B. Outdoor play areas for children must be located in a side or rear yard and shall be sufficiently enclosed so as to protect the neighborhood from inappropriate noise and to provide for the health and safety of the children as determined by the Zoning Hearing Board.

C. No employees other than residents of the dwelling shall be permitted.

D. Day care homes must be owner occupied.

E. Day care operations shall be conducted so as to be clearly incidental and accessory to the primary use of the property as a residential dwelling.

(Ord. 6/6/1988, §609)

§27-610. Domiciliary Care Home.

In the R zone and subject to the requirements of that zone except as herein modified and provided:

A. Domiciliary care operations shall be conducted as an accessory use to the primary use of the property as a single-family residence.

B. The domiciliary care home must be owner occupied and only family members residing on the premises shall provide the care associated with a domiciliary care facility.

C. No facilities for cooking or dining shall be provided in individual rooms or suites.

D. The facility must be certified by the York County Area Agency on Aging.

E. The home must comply with all local regulations including, but not limited to, fire, health and building codes.

(Ord. 6/6/1988, §610)

§27-611. Funeral Home.

In an R zone and subject to the requirements of the zone in which located except as herein modified and provided:

A. Access must be on an arterial or collector street as designated in the Borough's Comprehensive Plan.

B. Sufficient off-street parking must be provided.

(Ord. 6/6/1988, §611)

§27-612. Greenhouse, Horticultural Nursery.

In the R zone and subject to the requirements of that zone except as herein modified and provided:

A. Access must be via an arterial or collector street as designated in the Borough's Comprehensive Plan.

B. No sale of general hardware, power tools or motorized equipment is permitted. No outdoor display of tools or equipment is permitted.

(Ord. 6/6/1988, §612)

§27-613. Group Home.

In the R zone and subject to the requirements of that zone except as herein modified and provided:

A. A minimum of 250 square feet of habitable floor area shall be provided for each occupant.

B. A common kitchen and dining facility shall be provided and no cooking or dining facilities shall be provided in individual rooms or suites. This provision is not intended to require such facilities if the affiliated institution provides them elsewhere.

C. The institution with which the group home is affiliated shall provide administrative and professional direction for the occupants by a resident staff member.

D. Group homes shall be registered and licensed by the Commonwealth of Pennsylvania and shall be in compliance with all applicable rules and regulations of the licensing body.

E. The group home must comply with all local regulations including, but not limited to, fire, health and building codes.

F. A group home shall not be located within 2,000 feet of any other group home.

G. Group homes shall be registered and licensed by the Commonwealth of Pennsylvania and shall be in compliance with all applicable rules and regulations of the licensing body.

(Ord. 6/6/1988, §613)

§27-614. Group Quarters.

In the VC zone and subject to the requirements of that zone except as herein modified and provided:

A. A minimum of 250 square feet of habitable floor area shall be provided for each occupant.

B. A common kitchen and dining facility shall be provided and no cooking or dining facilities shall be provided in individual rooms or suites. This provision is not intended to require any kitchen and dining facilities if the affiliated institution provides them elsewhere.

C. Group quarters shall comply with all applicable building, health and fire

codes of the local government.

(Ord. 6/6/1988, §614)

§27-615. Heavy Storage Service.

In the VC zone and subject to the requirements of that zone except as herein modified and provided:

A. Access must be on an arterial or collector street as designated in the Borough's Comprehensive Plan.

B. Any area used for outdoor storage shall be enclosed by a wall or fence.

C. Satisfactory provision shall be made to minimize harmful or unpleasant effects such as noise, odors, fumes, glare, vibration, and smoke.

D. No known or suspected toxic or hazardous materials may be stored on any property.

E. A buffer yard 50 feet wide must be located on the site in all instances where the site adjoins a residential use or zone. The buffer yard shall be naturally landscaped, have no impervious cover and shall not be used for building, parking, loading or storage.

(Ord. 6/6/1988, §615)

§27-616. Home Occupation and Profession.

1. Subject to the requirements below, the following home occupations and professions may be authorized only in a dwelling unit in an R or VC zone: physician, dentist, clergyman, lawyer, engineer, accountant, architect, teacher, artist, licensed insurance or real estate agent, seamstress, barber, beautician, and similar service occupations and professions.

2. *Regulations for Permitted Home Occupations and Professions.*

A. *Employees.* No person other than a resident of the dwelling unit may practice the occupation. No more than one person shall be employed to provide secretarial, clerical or other assistance.

B. *Coverage.* Not more than 30 percent of the ground floor area of the dwelling unit may be devoted to home occupation or profession.

C. *Appearance.* The character or external appearance of the dwelling unit must be that of a dwelling. No display of products may be shown so as to be visible from outside the dwelling. A name plate not larger than 2 square feet in area is permitted and may be illuminated only by indirect lighting.

D. *Parking.* Besides the required parking for the dwelling unit, additional parking is required as follows:

(1) One space for the home occupation and one space for the nonresident employee.

(2) Additional spaces for patrons shall be provided.

(3) Each space shall not have direct access to the street to avoid vehicles backing into the flow of traffic.

(Ord. 6/6/1988, §616)

§27-617. House of Worship.

In the R zone and subject to the requirements of that zone except as herein modified and provided:

A. *Side setback* - Minimum side setbacks of 20 feet (each) must be provided.

B. Access shall be via an arterial or collector street as designated by the Borough's Comprehensive Plan.

(Ord. 6/6/1988, §617)

§27-618. Junkyard, Automobile Dismantling Plant.

In the VC zone and subject to the requirements of that zone except as herein modified and provided:

A. *Lot area* - 5 acres minimum.

B. *Lot width* - 300 feet minimum.

C. *Setbacks* - any area used for this purpose must be at least 75 feet from any property line and 100 feet from any street line.

D. The area to be used must be completely enclosed with a 6-foot high fence so constructed as not to have openings greater than 6 inches in any direction and should include appropriate screening.

E. Must comply with all applicable State regulations.

(Ord. 6/6/1988, §618)

§27-619. Kennel, Animal Hospital.

In the VC zone and subject to the requirements of that zone except as herein modified and provided:

A. *Lot area* - 2 acres minimum.

B. *Setbacks* - all buildings, dog runs, fenced enclosures and similar structures shall be located at least 100 feet from all property or street lines.

C. All animals must be housed within a structure.

D. Satisfactory evidence must be presented to indicate that adequate disposal of animal waste will be provided in a manner that will not create a public health hazard or nuisance.

(Ord. 6/6/1988, §619)

§27-620. Laundry, Dry-Cleaning Establishment.

In the VC zone and subject to the requirements of that zone except as herein modified and provided:

A. Access shall be via an arterial or collector street as designated by the Borough's Comprehensive Plan.

B. Public sewer and public water approved by the Pennsylvania Department of Environmental Protection must be utilized. [Ord. 2007-2]

C. Satisfactory evidence must be presented to show that adequate disposal of toxic materials will be provided in a manner that will not be a public health

hazard or a public nuisance.

(*Ord. 6/6/1988, §620; as amended by Ord. 2007-2, 12/17/2007*)

§27-621. Light Industry.

In the VC zone and subject to the requirements of that zone except as herein modified and provided:

- A. *Lot area* - 1 acre minimum.
- B. *Lot width* - 100 feet minimum.
- C. Public sewer and public water approved by the Pennsylvania Department of Environmental Protection must be utilized. [*Ord. 2007-2*]
- D. Access must be via an arterial or collector street as designated by the Borough's Comprehensive Plan.
- E. Satisfactory evidence must be presented to indicate that adequate disposal of toxic materials will be provided in a manner that will not create a public health hazard or nuisance.

(*Ord. 6/6/1988, §621; as amended by Ord. 2007-2, 12/17/2007*)

§27-622. Medical Clinic.

In the VC zone and subject to the requirements of that zone except as herein modified and provided:

- A. *Lot area* - 1 acre minimum.
- B. *Lot width* - 100 feet minimum.
- C. *Setbacks* - all buildings shall be located at least 50 feet from all property or street lines.
- D. Public sewer and public water approved by the Pennsylvania Department of Environmental Protection must be utilized. [*Ord. 2007-2*]
- E. Buffers and screens shall be provided as necessary to adequately protect neighboring properties. This includes, but is not limited to, fences, walls, plantings and open spaces.
- F. Accessory services, including laboratories and pharmacies for the use of patients visiting medical practitioners in the clinic, may be permitted as part of the clinic facility, subject to the following specific conditions:
 - (1) All entrances to parts of the building in which these accessory services are provided shall be from within the building and any direct access from the street is prohibited.
 - (2) The hours during which these services are provided shall be the same as those during which medical practitioners are receiving patients.
 - (3) Signs or other evidence advertising or indicating the provision of these services visible from outside the building are prohibited; except that there may be erected one sign not exceeding 2 square feet in area attached to the building, any illumination thereof being white, nonflashing, and limited to an enclosed lamp design.

(*Ord. 6/6/1988, §622; as amended by Ord. 2007-2, 12/17/2007*)

§27-623. Mini-Storage.

In the VC zone and subject to the requirements of that zone except as herein modified and provided:

- A. *Lot area* - 1 acre minimum.
- B. *Lot width* - 100 feet minimum.
- C. Access shall be via an arterial or collector street as designated in the Borough's Comprehensive Plan.
- D. All lights shall be shielded to direct light onto the uses established and away from adjacent property.
- E. Buffers and screens shall be provided as necessary to adequately protect neighboring properties. This includes, but is not limited to, fences, walls, plantings and open spaces.
- F. The servicing or repair of stored equipment shall not be conducted on the premises. Also no business activities other than rental of storage units shall be conducted on the premises.
- G. All storage shall be within the building area.
- H. A 20-foot parking lane must be provided adjacent to the storage units for loading and unloading purposes.

(*Ord. 6/6/1988, §625*)

§27-624. Mobile Home Park.

In the R zone and subject to the requirements of that zone except as herein modified and provided:

- A. The minimum tract area shall be 5 acres.
- B. Public sewer and public water approved by the Pennsylvania Department of Environmental Protection must be utilized, and each mobile home lot (not including street right-of-way) must be not less than 7,500 square feet in area and not less than 75 feet wide at the building setback line. [*Ord. 2007-2*]
- C. Regardless of lot size, the side yard distances measured from outside each mobile home to the lot line shall not be less than 30 feet in total and no one side yard distance less than 12 feet. Front yards shall not be less than 20 feet and rear yards shall not be less than 10 feet and in no case shall the distance between any two mobile homes be less than 30 feet. The total number of mobile homes shall not exceed an average density of 5 per acre.
- D. The Zoning Hearing Board may require additional suitable screen planting, or may further restrict the proximity of mobile homes or other improvements to adjoining properties, or may attach such other conditions or safeguards to the use of land for a mobile home park as the Board may deem necessary to protect the general welfare.
- E. A mobile home park and extension thereof shall also comply with all applicable State and/or municipal regulations now in effect or hereafter enacted.

(*Ord. 6/6/1988, §624; as amended by Ord. 2007-2, 12/17/2007*)

§27-625. Multi-Family Dwelling(s).

In the R or VC zone and subject to the requirements of the zone in which located except as herein modified and provided:

A. In the case of a multi-family dwelling where individual dwelling units are located on a single lot and share with other units a common yard area (e.g., garden apartments), the following requirements shall apply:

- (1) *Lot area* - 40,000 square feet minimum.
- (2) *Lot width* - 150 feet minimum.
- (3) *Side setback* - minimum side setbacks of 20 feet each shall be provided.
- (4) *Density* - the maximum density shall be eight dwelling units per acre of lot area.
- (5) Public sewer and public water must be utilized.
- (6) *Distance between buildings* - where two or more multi-family dwellings are located on a single lot or parcel, the minimum distance between principal buildings shall be 40 feet.
- (7) All parking areas shall be located at least 10 feet from any property line or street line.
- (8) Buffers and screens shall be provided as necessary to adequately protect neighboring properties. This includes, but is not limited to, fences, walls, plantings and open spaces.

B. In the case of a multi-family dwelling where individual dwelling units are located on separate lots (e.g., townhouses or row houses), the following requirements shall apply:

- (1) *Lot area* - each lot shall have a minimum area of 3,000 square feet.
- (2) *Lot width* - each lot shall have a minimum width of 20 feet.
- (3) There shall not be more than six dwelling units in any one row.
- (4) Dwelling units at the end of a row shall have a minimum side setback of 20 feet.
- (5) Public sewer and public water must be utilized.
- (6) *Density* - the maximum density shall be 10 dwelling units per acre for the tract.

(Ord. 6/6/1988, §625)

§27-626. Multi-Family or Two-Family Conversion.

In an R or VC zone and subject to the requirements of the zone in which located except as herein modified and provided:

- A. There shall be a minimum of 4,000 square feet of lot area per dwelling unit.
- B. Where an existing dwelling is converted to a multi-family or two-family dwelling, the character of the existing structure shall be maintained.
- C. Parking, minimum habitable floor area and all other applicable require-

ments of this Chapter shall be met.

D. The structure shall comply with all applicable rules and regulations including, but not limited to, fire, health, safety and building codes.

(Ord. 6/6/1988, §626)

§27-627. Nonconformity, Expansion or Alteration of.

In any zone and subject to the requirements of the zone in which located except as herein modified and provided:

A. Expansion of the nonconformity shall be confined to the lot on which it is located on the effective date of this Chapter or any amendment thereto creating the nonconformity.

B. The total of all such expansions or alterations of use shall not exceed an additional 35 percent of the area of those buildings or structures devoted to the nonconforming use as they existed on the date on which such buildings or structures first became nonconformities.

C. Provision for access drives, off-street parking and off-street loading shall be consistent with standards required by this Chapter.

D. Provision for yards, building height and building area shall be consistent with the standards required for permitted uses in the zone in which the nonconformity in question is located.

E. Appearance should be harmonious with surrounding properties. This feature includes, but is not limited to: landscaping, enclosure of principal and accessory uses, height control, sign control, architectural control and maintenance in good condition of all improvements and open spaces.

F. Buffers and screens shall be provided as necessary to adequately protect neighboring properties. This includes, but is not limited to, fences, walls, plantings and open spaces.

G. The expansion shall not create new dimensional nonconformities or further increase existing dimensional nonconformities.

(Ord. 6/6/1988, §627)

§27-628. Outdoor Commercial Recreation Establishment.

In the VC zone and subject to the requirements of that zone except as herein modified and provided:

A. *Setbacks* - the area to be used for recreational purposes must be set back at least 35 feet from any property or street line.

B. The use must have access via an arterial or collector street as designated in the Borough's Comprehensive Plan.

C. Where an outdoor recreational use, other than a golf course, adjoins a residential use, trees or shrubs must be planted on the site of this use so as to form an effective visual barrier between the outdoor recreational use and adjoining residential properties.

(Ord. 6/6/1988, §628)

§27-629. Park and Other Recreation Areas of a Nonprofit Nature.

In the R or VC zone and subject to the requirements of the zone in which located except as herein modified and provided:

A. Consideration shall be given to traffic problems. If the nature of the park or open space area is such that it will generate a high volume of vehicular traffic then access should be via an arterial or collector street as designated in the Borough's Comprehensive Plan.

B. The Zoning Hearing Board shall decide the appropriateness of the design of parking, lighting, and similar features of the proposed use to minimize adverse impacts on adjacent properties.

(*Ord. 6/6/1988, §629*)

§27-630. Personal Care Boarding Home.

In the R or VC zone and subject to the requirements of the zone in which located except as herein modified and provided:

A. The applicant must secure certifications or licenses from the appropriate Federal and/or State agencies.

B. No kitchen or dining facilities shall be permitted in individual rooms or suites.

C. The facility must meet all applicable fire, health, safety and building codes.

D. Public water and public sewer approved by the Pennsylvania Department of Environmental Protection must be utilized. [*Ord. 2007-2*]

E. At least one parking space for each employee plus one parking space for each bedroom shall be provided.

(*Ord. 6/6/1988, §630; as amended by Ord. 2007-2, 12/17/2007*)

§27-631. Public Buildings and Facilities.

In the R zone and subject to the requirements of that zone except as herein modified and provided:

A. *Setbacks* - all buildings and facilities shall be set back at least 25 feet from any property line and 50 feet from a street line.

B. Consideration shall be given to traffic problems. If the nature of the public building or facility is such that it will generate a high volume of vehicular traffic then access should be via an arterial or collector street as designated in the Borough's Comprehensive Plan.

(*Ord. 6/6/1988, §631*)

§27-632. Public Utility Building.

In the R or VC zone and subject to the requirements of the zone in which located except as herein modified and provided:

A. In the R zone, the permitted building shall not include the storage of vehicles or equipment used in the maintenance of any utility and no equipment causing unreasonable noise, vibration, smoke, odor, or hazardous effect shall be

installed.

B. Unhoused equipment shall be enclosed with a fence or wall not less than 6 feet in height which shall be so constructed as not to have openings, holes or gaps larger than 6 inches in any dimension. Such fence must be surrounded by evergreen plantings.

C. *Housed Equipment.* When the equipment is totally enclosed within a building, no fence or screen planting shall be required and the yard shall be maintained in conformity with the zone in which the building is located.

(*Ord. 6/6/1988, §632*)

§27-633. Research Laboratory.

In the VC zone and subject to the requirements of that zone except as herein modified and provided:

A. Access shall be via an arterial or collector street as designated by the Borough's Comprehensive Plan.

B. Buffers and screens shall be provided as necessary to adequately protect neighboring properties. This includes, but is not limited to, fences, walls, plantings and open spaces.

C. Satisfactory provision shall be made to minimize harmful or unpleasant effects such as noise, odors, fumes, glare, vibration, and smoke. Toxic materials may only be stored or disposed of in a manner that will not be a public health hazard or a public nuisance.

(*Ord. 6/6/1988, §633*)

§27-634. Rooming House.

In the R or VC zone and subject to the requirements of the zone in which located except as herein modified and provided:

A. A rooming house shall be owner-occupied and shall be an accessory use to a single-family dwelling.

B. Each guest room shall have a habitable area of at least 100 square feet.

C. No facilities for cooking or dining shall be provided in individual guest rooms.

D. A minimum of one off-street parking space per guest room shall be provided in addition to the required parking for the dwelling unit. Failure to use the off-street parking will result in revocation of the special exception.

E. A rooming house shall comply with all applicable Federal, State and local laws and regulations including, but not limited to, fire, health, safety and building codes.

(*Ord. 6/6/1988, §634; as amended by Ord. 2014-2, 8/4/2014, §6*)

§27-635. Service Station or Convenience Store Dispensing Fuel.

In the VC zone and subject to the requirements of that zone except as herein modified and provided:

- A. Buildings must be set back at least 40 feet from the street line.
- B. Pumps must be set back at least 15 feet from the street line.
- C. Access drives must be located as follows:
 - (1) *Minimum offset from intersection of street right-of-way lines* - 40 feet.
 - (2) *Side lot line offset* - 10 feet.
 - (3) *Minimum width* - 12 feet.
 - (4) *Maximum width* - 35 feet.
 - (5) *Minimum separation of drives on same lot* - 25 feet.
- D. Except along access drives, a concrete curb 8 inches in height must be placed along all street right-of-way lines.
- E. All lights must be diverted toward the service station or downward on the lot.
- F. No outdoor stockpiling of tires or outdoor storage of trash is permitted. An area enclosed by a wall, fence or vegetative material and screened from view of adjoining properties, shall be provided whenever outdoor storage is required. No materials may be stored so as to create a fire hazard.
- G. At least 10 percent of the lot on which the service station is situated must be devoted to natural landscaping.

(Ord. 6/6/1988, §635)

§27-636. Shopping Center or Mall.

In the VC zone and subject to the requirements of that zone except as herein modified and provided:

- A. *Lot area* - 1 acre minimum.
- B. *Lot width* - 150 feet minimum.
- C. All buildings must be set back at least 25 feet from any property line and 50 feet from a street line.
- D. Parking must be provided at the minimum ratio of five and one-half parking spaces for each 1,000 square feet of gross leasable floor area of building.
- E. Access must be via an arterial or collector street as designated in the Borough's Comprehensive Plan.
- F. A buffer yard at least 20 feet wide must be provided on the site in all instances where the site adjoins an R zone. The buffer yard shall be naturally landscaped, have no impervious cover and shall not be used for building, parking, loading or storage purposes.

(Ord. 6/6/1988, §636)

§27-637. Vehicle Washing Facility.

In the VC zone and subject to the requirements of that zone except as herein modified and provided:

- A. *Lot area* - 1 acre minimum.
- B. *Lot width* - 100 feet minimum.

C. Access shall be via an arterial or collector street as designated by the Borough's Comprehensive Plan.

D. Public sewer and public water approved by the Pennsylvania Department of Environmental Protection must be utilized. [*Ord. 2007-2*]

E. The content of sanitary waste flows shall be subject to State and local regulations.

(*Ord. 6/6/1988, §637; as amended by Ord. 2007-2, 12/17/2007*)

Part 7**Administration and Enactment****§27-701. Permits.**

1. *Zoning/Use Permits.* Where required by the Lewisberry Borough Zoning/Use Permit Ordinance [Chapter 5, Part 2] for the erection, enlargement, repair, alteration, moving or demolition of any structure, a zoning/use permit must be obtained from the Zoning Officer. A zoning/use permit expires 1 year from the date of issuance unless a time extension is granted in writing by the Zoning Officer. Time extensions shall be granted only if a written request is submitted by the applicant which sets forth sufficient and reasonable cause for the Zoning Officer to approve such a request. The permit application must be accompanied by a site plan showing as necessary to demonstrate conformity to this Chapter: [Ord. 2007-2]

A. *Lot.* The location and dimensions of the lot.

B. *Streets.* Names and widths of abutting streets and highways.

C. *Structures and Yards.* Locations, dimensions, and uses of existing and proposed structures and yards on the lot and, as practical, of any existing structures within 100 feet of the proposed structure but off the lot.

D. *Improvements.* Proposed off-street parking and loading areas, access drives, and walks. Proposed sewage disposal system.

E. For lots less than ½ acre, the site plan must be at the scale of 1 inch = 20 feet; for larger lots, the site plan must be at scale of 1 inch = 40 feet. The north point must be shown on all site plans.

2. *Use Certificates.* A use certificate, certifying compliance with this Chapter must be obtained from the Zoning Officer for any new structure as below or for any change of use of a structure or land as set forth below before such new structure or use or change of use is occupied or established:

A. Use of a structure erected, structurally altered or extended, or moved after June 6, 1988.

B. Use of vacant land except for agricultural purposes.

C. Any change in a conforming use of a structure or land.

D. Any change from a nonconforming use of a structure or land to a conforming use.

E. Any change in the use of a structure or land from that permitted by any variance of the Zoning Hearing Board.

3. The applications for a use certificate must include a statement of the intended use and any existing use of the structure or land. The certificate continues in effect as long as the use of the structure or land for which it is granted conforms with this Chapter.

(Ord. 6/6/1988, §701; as amended by Ord. 2007-2, 12/17/2007)

§27-702. Erroneous Permit.

A zoning/use permit or other permit or authorization issued or approved in violation of the provisions of this Chapter, is void without the necessity of any proceedings for revocation. Any work undertaken or use established pursuant to such a permit or other authorization is unlawful. No action may be taken by a board, agency, or employee of the Borough purporting to validate such a violation.

(*Ord. 6/6/1988, §702; as amended by Ord. 2007-2, 12/17/2007*)

§27-703. Enforcement; Zoning Officer.

1. *Appointment and Powers.* For the administration of this Chapter, a Zoning Officer, who may not hold any elective office in the Borough, shall be appointed by the Borough Council. The Zoning Officer shall administer this Chapter in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to this Chapter. The Zoning Officer is the enforcement officer for this Chapter. He issues all zoning/use permits, use certificates, and at direction of the Zoning Hearing Board, special exceptions and variances. The Zoning Officer shall identify and register nonconforming uses and nonconforming structures. The Zoning Officer may conduct inspections and surveys to determine compliance or noncompliance with the terms of this Chapter with consent of the owner. [*Ord. 2007-2*]

2. *Forms.* The Zoning Officer must provide a form or forms prepared by the Borough Solicitor for:

- A. Zoning/Use permits. [*Ord. 2007-2*]
- B. Special exceptions.
- C. Use certificates.
- D. Appeals.
- E. Variances.
- F. Registration of nonconforming uses and nonconforming structures.

3. *Transmittal of Papers.* Upon receipt of an application for a special exception, variance or a notice of appeal, the Zoning Officer must transmit to the Secretary of the Zoning Hearing Board and to the Borough Planning Commission, copies of all papers constituting the record upon the special exception, variance, or appeal.

4. *Action on Zoning/Use Permits.* Within 15 days, except for holidays, after receipt of an application for a zoning/use permit, the Zoning Officer must grant or refuse the permit. If the application conforms to the applicable requirements of the Zoning/Use Permit Ordinance [Chapter 5, Part 2] and this Chapter, the Zoning Officer must grant a permit. If the permit is not granted, he must state in writing the grounds of his refusal. [*Ord. 2007-2*]

5. *Action on Use Certificates.* Within 15 days, except for holidays, after receipt of an application for a use certificate, the Zoning Officer must grant or refuse the certificate. If the specifications and intended use conform in all respects with the provisions of this Chapter, he must issue a certificate to that effect. Otherwise, he must state in writing the grounds of his refusal.

6. *Enforcement.* Upon determining that a violation of any of the provisions of this Chapter exists, the Zoning Officer must serve notice on the person committing or permitting the same that a violation of this Chapter exists. Following the notice, he

must take the action necessary to terminate the violation, including recourse to a court of record.

7. *Records.* The Zoning Officer must keep record of:

A. All applications for zoning/use permits, use certificates, special exceptions and variances and all actions taken on them, together with any conditions imposed by the Zoning Hearing Board. [*Ord. 2007-2*]

B. All complaints of violations of provisions of this Chapter and the action taken on them.

C. All plans submitted.

D. Nonconforming uses and nonconforming structures.

E. All such records and plans shall be available for public inspection.

8. *Reports.* At intervals of not greater than 6 months, the Zoning Officer must report to the Borough Council:

A. The number of zoning/use permits and use certificates issued. [*Ord. 2007-2*]

B. The number of complaints of violations received and the action taken on these complaints.

(*Ord. 6/6/1988, §703; as amended by Ord. 2007-2, 12/17/2007*)

§27-704. Modifications.

The regulations embodied in this Chapter are the minimum standards for the protection of the public welfare. When special circumstances warrant, the Borough may impose stricter standards.

(*Ord. 6/6/1988, §704*)

§27-705. Amendments.

1. The Borough Council may from time to time amend, supplement or repeal any of the regulations and provisions of this Chapter.

2. Before voting on the enactment of an amendment, the Borough Council shall hold a public hearing thereon, pursuant to public notice. 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 30 days prior to the hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendations. If after any public hearing held upon an amendment, the proposed amendment is revised, or further 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. At least 30 days prior to the hearing on the amendment by the Borough Council, the Borough Planning Commission shall submit the proposed amendment to the County Planning Commission for recommendations.

3. *Curative Amendments.* A landowner who desires to challenge on substantive grounds the validity of an ordinance or 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 §1004 of the Pennsylvania Municipalities Planning Code, 53 P.S. §11004, as amended.

(*Ord. 6/6/1988, §705*)

§27-706. Fees.

The Borough Council shall by resolution establish fees for all applications, permits, or appeals provided for by this Chapter to defray the costs of advertising, mailing notices, processing, inspecting, and copying applications, permits, and use certificates. The fee schedule shall be available from the Zoning Officer or Borough Secretary for inspection.

(*Ord. 6/6/1988, §706*)

§27-707. Appeals.

Any person aggrieved or affected by provision of this Chapter or decision of the Zoning Officer, may appeal in the manner set forth in Article X-A of the Pennsylvania Municipalities Planning Code, 53 P.S. §11001-A *et seq.*, as amended.

(*Ord. 6/6/1988, §707; as amended by Ord. 2007-2, 12/17/2007*)

§27-708. Repealer.

All ordinances or parts of ordinances in conflict with this Chapter or inconsistent with the provisions of this Chapter are hereby repealed to the extent necessary to give this Chapter full force and effect.

(*Ord. 6/6/1988, §708*)

§27-709. Interpretation.

The provisions of this Chapter shall be held to be minimum requirements to meet the purposes of this Chapter. When provisions of this Chapter impose greater restrictions than those of any statute, other ordinance, or regulations, the provisions of this Chapter shall prevail. When provisions of any statute, other ordinance or regulation impose greater restrictions than those of this Chapter, the provisions of such statute, ordinance or regulation shall prevail.

(*Ord. 6/6/1988, §709*)

§27-710. Violations.

1. In case any building, structure, 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 approval of the Borough Council, an officer of the Borough, in addition to other remedies, may institute in the name of the Borough any appropriate action or proceeding to prevent, restrain, correct, or abate such building, structure or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation.

2. All penalties collected for the violation of this Chapter shall be paid over to the Borough.

(*Ord. 6/6/1988, §710*)

§27-711. Validity.

If any Section, clause, provision or portion of this Chapter shall be held invalid or unconstitutional by a recognized court of the Commonwealth, such decision shall not affect the legality of the remaining Sections, clauses, provisions or portions of this Chapter.

(*Ord. 6/6/1988, §711*)

§27-712. Effective Date.

This Chapter shall take effect immediately upon adoption and publication according to law.

(*Ord. 6/6/1988, §712*)

§27-713. 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 10 days.

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

(*Ord. 6/6/1988; as added by Ord. 2007-2, 12/17/2007*)

§27-714. 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 less than \$25 nor more than \$500 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 magisterial district judge. 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 magisterial district judge determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this Chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the magisterial district judge 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. Magisterial district judges shall have initial jurisdiction over proceedings brought under this Section.

(Ord. 6/6/1988; as added by Ord. 2007-2, 12/17/2007)