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## Part 1

### Purposes; Scope; Interpretation; Short Title

#### **§100. Purposes.**

This Chapter is enacted for the following purposes: to promote the health, safety, morals, and general welfare of the inhabitants of the Borough of Mohnton by lessening congestion in the streets, securing safety from fire, panic and other dangers; providing adequate light and air; facilitating the adequate provision of transportation, water, sewage, schools, parks, and other public requirements, conserving the value of buildings, and encouraging the most appropriate use of land throughout the Borough. (Ord. 264, 7/23/1962, §100)

#### **§101. Scope.**

From and after the effective date of this Chapter, the use of all land and every building or portion of a building erected, altered with respect to height and area, added to, or relocated, and every use within a building or use accessory thereto, in the Borough of Mohnton shall be in conformity with the regulations herein prescribed, shall be regarded as nonconforming but may be continued, extended, or changed subject to the special regulations herein provided with respect to nonconforming buildings or uses in §§900 and 901. (Ord. 264, 7/23/1962, §101)

#### **§102. Interpretation.**

In interpreting and applying the provisions of this Chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of this Chapter impose greater restrictions than those of any statute, other ordinance, or regulations, the provisions of this Chapter shall be controlling. Where the provisions of any statute, other ordinance or regulations impose greater restrictions than this Chapter, the provisions of such statute, other ordinance or regulations shall be controlling. (Ord. 264, 7/23/1962, §102)



## Part 2

### Classification of Districts

#### **§200. Classes of Districts.**

For the purpose of this Chapter, the Borough of Mohnton is hereby divided into six classes of districts which shall be designated as follows:

RA Residence Districts

R-1 Residence Districts

R-2 Residence Districts

C-1 Commercial Districts

C-2 Commercial Districts

M Manufacturing Districts

(Ord. 264, 7/23/1962, §200)

#### **§201. Zoning Map.**

The boundaries of districts shall be as shown on the map attached to and made a part of this Chapter, which map shall be known as the "Zoning Map of Mohnton Borough." Said map and all notations, references, and data shown thereon are hereby incorporated by reference into this Chapter, and shall be as much a part of this Chapter as if all were fully described herein. (Ord. 264, 7/23/1962, §201)

#### **§202. District Boundaries.**

The boundaries between districts are, unless otherwise indicated, either the center lines of streets or such lines extended or lines parallel or perpendicular thereto. Where figures are shown on the Zoning Map between a street and a district boundary line, they indicate that the district boundary line runs parallel to the street line at a distance therefrom equivalent to the number of feet so indicated. (Ord. 264, 7/23/1962, §202)

#### **§203. Boundary Tolerance.**

Where a district boundary line divides a lot which was held in single and separate ownership at the time the boundary line was established, the use regulations applicable to the less restricted district shall extend over the portion of the lot in the more restricted district a distance of not more than 80 feet beyond the district boundary line. (Ord. 264, 7/23/1962, §203)



### Part 3

#### RA-Residence Districts

##### **§300. Use Regulations.**

In RA-Residence Districts, the following regulations shall apply. A building may be erected or used, and a lot may be used or occupied, for any of the following purposes, and no other:

1. Single-family detached dwelling.
2. Tilling of soil, including nursery, but excluding the keeping and raising of poultry and livestock.
3. School; church; hospital; not to include business or trade school, convalescent home or similar use.
4. Borough building or use, such as administrative, service or storage building, community center or library; public utility building, grounds or facilities, local public utility line, television or radio station, telephone central office, and electric substation, but not including utility service yard, business office, storage garage or any similar use not ordinarily appropriate in a predominantly residential environment except where such use may be permitted by the Zoning Hearing Board as a special exception where it is determined that the placement of the particular use in the proposed location is a public necessity.
5. Park, playground or other noncommercial recreational area owned and operated by a public or a private non-profit agency.
6. Club or lodge, organized for fraternal or social purposes, provided that the chief activity shall not be one which is customarily carried on as a business, and provided that the buildings and services shall be for the use of members and their guests only.
7. The following uses when authorized by the Zoning Hearing Board as a special exception, subject to the requirements of §1207:
  - A. Two or three family dwelling on conversion only, in accordance with the additional provisions of §903.
  - B. Convalescent home, religious, educational or philanthropic use not permitted in Subsection (3) of this §300.
  - C. Cemetery.

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8. Accessory use on the same lot with and customarily incidental to any of the foregoing permitted uses. The term “accessory use” shall not include a business, but shall include:
  - A. Private garage, or stable.
  - B. Professional office or studio and/or rooms for customary home occupations (such as millinery and dressmaking), provided that such office, studio, or rooms for home occupations shall be located in a dwelling in which the practitioner resides, or in a building accessory thereto, and that no goods shall be publicly displayed on the premises.
  - C. Not more than three rental rooms for roomers or tourists.
  - D. Signs when erected and maintained in accordance with the provisions of Part 10 of this Chapter.

(Ord. 264, 7/23/1962, §§300, 301)

### **§301. Area Regulations.**

1. Lot, Area and Width. A lot area of not less than 12,000 square feet per family shall be provided for every building hereafter erected or used in whole or in part as a dwelling, provided that where such dwelling is served by neither public water nor a sanitary sewer, the minimum lot area per family shall be 20,000 square feet. Each lot shall have a width at the building line of not less than 80 feet. (See also, §901)
2. Building Area. Not more than 30% of the area of each lot may be occupied by buildings.
3. Yards. Front, side and rear yards shall be provided on each lot as follows:
  - A. Front Yard. One yard, not less than 30 feet in depth, measured from the street line, subject to the provisions of §912.
  - B. Side Yard. Two yards, not less than 20 feet in aggregate width, and neither less than eight feet; except that, in the case of a corner lot, any side yard which abuts a street shall have a width of not less than the required depth for the front yard of a building fronting on such street and adjoining the corner lot, subject to the provisions of §901. [Ord. 508]
  - C. Rear Yard. One yard, not less than 30 feet in depth.

(Ord. 264, 7/23/1962, §302; as amended by Ord. 508, 8/14/1991, §1)

**§302. Height Regulations.**

No building shall exceed 35 feet in height, provided that such height limits may be exceeded by one foot for each foot by which the width of each side yard is increased beyond minimum side yard requirements, up to a maximum height of 45 feet. (Ord. 264, 7/23/1962, §303)



**Part 4**

**R-1 Residence Districts**

**§400. Use Regulations.**

In R-1 Residence Districts, the following regulations shall apply. A building may be erected or used, and a lot may be used or occupied, for any use permitted in RA-Residence Districts. (Ord. 264, 7/23/1963, §§400, 401)

**§401. Area Regulations.**

1. Lot Area and Width. Every building hereafter erected or used in whole or in part as a dwelling shall have a lot area and a lot width at the building line of not less than the requirements set forth below, subject to the provisions of §901.
  - A. Where a dwelling is served by both public water and sanitary sewer facilities: a minimum lot area per family of 7,500 square feet and a minimum lot width of 60 feet.
  - B. Where a dwelling is served by either public water or sanitary sewer facilities, but not both: a minimum lot area per family of 12,000 square feet and a minimum lot width of 80 feet.
  - C. Where a dwelling is served by neither public water nor sanitary sewer facilities: a minimum lot area per family of 20,000 square feet and a minimum lot width of 80 feet.
2. Building Area. Not more than 35% of the area of each lot may be occupied by buildings.
3. Yards. Front, side and rear yards shall be provided on each lot as follows:
  - A. Front Yard. One yard, not less than 30 feet in depth, measured from the street line, subject to the provisions of §912.
  - B. Side Yards. Two yards, not less than 20 feet in aggregate width, and neither less than eight feet; except that, in the case of a corner lot and any side yard which abuts a street shall have a width of not less than the required depth for the front yard of a building fronting on such street and adjoining the corner lot, subject to the provisions of §901.
  - C. Rear Yard. One yard, not less than 25 feet in depth.

(Ord. 264, 7/23/1962, §402)

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### **§402. Height Regulations.**

No building shall exceed 35 feet in height, provided that such height limits may be exceeded by one foot for each foot by which the width of each side yard is increased beyond minimum side yard requirements, up to a maximum height of 45 feet. (Ord. 264, 7/23/1962, §403)

**Part 5**

**R-2 Residence Districts**

**§500. Use Regulations.**

In R-2 Residence Districts the following regulations shall apply. A building may be erected or used, and a lot may be used or occupied for any of the following purposes, and no other:

1. Any use permitted in R-1 Residence Districts.
2. Two-family detached dwelling.
3. Single-family semi-detached dwelling, provided that the adjoining semi-detached dwelling with which it has a party wall in common is erected at the same time.
4. Single-family attached (row) dwelling, provided that such dwellings shall be constructed in series of not more than six dwelling units and that all units of a series shall be constructed at the same time.
5. Multiple dwelling, on new construction or by conversion only when approved by the Borough Council after review and recommendation of approval of the Zoning Hearing Board.
6. Professional or business office, provided that no building shall include an advertising window or any other commercial characteristic which detracts from the character of the district or surrounding neighborhood.
7. Parking lot when authorized by the Zoning Hearing Board as a special exception in accordance with the provisions of §504.

(Ord. 264, 7/23/1962, §§500, 501; as amended by Ord. 302, 7/15/1968)

**§501. Area Regulations.**

1. Lot Area and Width. Every building hereafter erected or used in whole or in part as a dwelling shall have a lot area and a lot width at the building line of not less than the requirements set forth below, subject to the provisions of §901:
  - A. Where a dwelling is served by both public water and sanitary sewer facilities, a minimum lot area per family of not less than 2,000 square feet shall be provided, provided that the minimum lot area for a single-family dwelling shall be not less than 5,000 square feet. The minimum lot width at the building line shall be 50 feet for a single or two-family detached dwelling, 20 feet for a semi-detached dwelling, and 75 feet for a multiple dwelling.

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- B. Where a dwelling is not served by both public water and sanitary sewer facilities, the minimum lot area per family requirements of §401, Subsections (B) and (C) shall apply.
- 2. Building Area. Not more than 65% of the area of each lot may be occupied by buildings.
  - 3. Yards. Front, side and rear yards shall be provided on each lot as follows:
    - A. Front Yard. One yard, not less than 20 feet in depth, measured from the street line, subject to the provisions of §912.
    - B. Side Yards. As follows, provided that where a lot held in single and separate ownership at the effective date of this Chapter, does not comply with the lot area and lot width requirements of this District, the yard requirements for each side yard may be reduced to not less than five feet subject also to the provisions of §901.
      - (1) For every single or two-family detached dwelling, two yards, not less than 16 feet in aggregate width and neither less than six feet in width, except that, in the case of a corner lot, any side yard which abuts a street shall have a width of not less than the required depth for the front yard of a building fronting on such street and adjoining the corner lot, subject to the provisions of §901.
      - (2) For every semi-detached dwelling, one yard, not less than 10 feet in width; except that, in the case of a corner lot, any side yard which abuts a street shall have a width of not less than the required depth for the front yard of a building forming on such street and adjoining the corner lot, subject to the provisions of §901.
      - (3) For every main building other than a dwelling and for every multiple dwelling, two yards not less than 30 feet in aggregate width and neither less than 12 feet in width; except that in the case of a corner lot, any side yard which abuts a street shall have a width of not less than the required depth for the front yard of a building fronting in such street and adjoining the corner lot, subject to the provisions of §901.
    - C. Rear Yard. One yard, not less than 20 feet in depth.

(Ord. 264, 7/23/1962, §502)

### **§502. Height Regulations.**

No building shall exceed 35 feet in height, provided that such height limits may be exceeded by one foot for each foot by which the width of each side yard is increased beyond

minimum side yard requirements, up to a maximum height of 50 feet. (Ord. 264, 7/23/1962, §503)

**§503. Parking Lot in Conjunction with Business or Industrial Use.**

An open air parking lot for the use of employees and patrons of an industrial plant or place of business within the Borough of Mohnton may be permitted in the District as a special exception by the Zoning Hearing Board, subject to the provisions of §1207 and the following special requirements:

1. No portion of such lot shall be located more than 300 feet from a commercial manufacturing district boundary; and
2. No such parking lot shall be used for the dead storage of vehicles, or for vehicles used for human habitation.

(Ord. 264, 7/23/1962, §504)



## Part 6

### C-1 Commercial Districts

#### **§600. Use Regulations.**

C-1 Commercial Districts are designed to provide for the special needs of the Borough's retail business areas and to encourage their development in compact shopping locations or centers. In C-1 Commercial Districts, the following regulations shall apply. A building may be erected or used, and a lot may be used or occupied, for any of the following purposes, and no other, provided that each use shall comply with the area, height, and special design requirements of §601:

1. Any use permitted in R-1 Residence Districts, except cemetery, hospital, convalescent home or other permitted institutional use.
2. Apartment for one family, located in same building as a business use.
3. Hotel, not to include rooming, tourist or boarding house, motel, tourist cabin court, or automobile court.
4. Retail store; not to include motor vehicle sales agency, repair shop or similar use.
5. Restaurant.
6. Professional or business office, agency, or studio.
7. Club or lodge.
8. Bank.
9. Shoe repair or similar shop.
10. Personal, service shop, including tailor, barber, beauty, dressmaking.
11. Confectionary, bakery or custom shop for making articles to be sold at retail on the premises, provided that all processing activities shall, if located on the ground floor, be effectively screened from the front portion of the building by a wall or partition.
12. Dry cleaning or clothes pressing agency; and or automatic self-service laundry.
13. Mortuary.
14. Business school.
15. Newspaper or job printing establishment.

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16. Motor vehicle parking lot, not to include automobile junkyard.
17. Borough or public utility building, grounds of facilities.
18. The following uses, when authorized by the Zoning Hearing Board as a special exception, subject also to the general standards specified in §1207:
  - A. Theater or indoor place of amusement, recreation or assembly, not including skating rink, bowling alley, or similar large establishment.
  - B. Craftsmen's or general service shop, including plumbing, heating, carpentry, tool and similar small shop.
  - C. Motel, tourist cabin court, or automobile court on a lot area of not less than one acre, provided that such use is served by public water and sanitary sewer facilities.
  - D. Motor vehicle service station, motor vehicle sales agency, public garage or automobile repair shop (but not to include car lot or trailer sales agency as a main use), provided that all facilities are located and all services are conducted within the confines of the lot.
  - E. Any use of the same general character as any of the above permitted uses, provided that special consideration shall be given to the suitability of the use in the proposed locations.
19. Accessory use on the same lot with and customarily incidental to any of the above permitted uses, including storage in conjunction with a retail or other permitted use, and signs when erected and maintained in accordance with the provisions of Part 10 of this Chapter.

(Ord. 264, 7/23/1962, §§600, 601)

### **§601. Area, Height and Special Design Regulations.**

Every building hereafter erected or used in whole or in part as a dwelling shall comply with the area and height regulations prescribed for R-1 Residence Districts in §§401 and 402 hereof. For commercial and other buildings no part of which is used as a dwelling, the following area and height regulations shall apply:

1. Building Area. Not more than 80% of the area of each lot may be occupied by buildings.
2. Yards. Front, side and rear yards shall be provided on each lot as follows:

- A. Front Yard. One yard, not less than 10 feet in depth, measured from the street line, subject to the provisions of §912.
  - B. Side Yards. None required for a building used for commercial purposes; except as follows:
    - (1) In the case of a corner lot, a side yard shall be provided on the side lot line that abuts a street which shall have a width of not less than the required depth for the front yard of a building fronting on such street and adjoining the corner lot, subject to the provisions of §901.
    - (2) Where a lot abuts a Residence District on the side lot line, a side yard shall be provided which shall be not less than 20 feet in width.
    - (3) In any case where side yards are provided, although they are not required, each such side yard shall be not less than five feet in width.
  - C. Rear Yard. There shall be a rear yard on each lot which shall be not less than 20 feet in depth.
3. Height Regulations. No building shall exceed two stories in height unless authorized by the Zoning Hearing Board as a special exception in the case of a hotel or office building.
4. Special Design Requirements. In order to encourage sound retail commercial development, the following special requirements shall apply:
- A. Restrictions on Outdoor Use.
    - (1) Each permitted use shall be conducted within a completely enclosed building, except for a permitted motor vehicle parking lot.
    - (2) No permanent storage of merchandise, articles or equipment shall be permitted outside a building. No goods, articles or equipment shall be stored, displayed or offered for sale beyond the street line.
  - B. Prohibited Activities. No operation, equipment or use shall be objectionable or noxious, offensive or hazardous as defined in §908.
  - C. Access and Parking Requirements. The special requirements relating to access prescribed in §701(5)(A) and the off-street parking and loading requirements of §§909 and 910 shall apply in C-1 Commercial Districts.

(Ord. 264, 7/23/1962, §602)



## Part 7

### C-2 Commercial Districts

#### §700. Use Regulations.

C-2 Commercial Districts are designed primarily to provide for the special needs of a wide range of heavier, highway and service type business activities which often require locations on major streets or adjacent to retail business and industrial districts. In C-2 Commercial Districts, the following regulations shall apply. A building may be erected or used, and a lot may be used or occupied, for any of the following purposes and no other, provided that each use shall comply with the area, height, and special design requirements of §701 below:

1. Any use permitted in C-1 Commercial Districts.
2. Wholesale business establishment.
3. Tourist house, rooming or boarding house.
4. Motor vehicle service station, motor vehicle sales agency, public garage or automobile repair shop (but not to include car lot or trailer sales agency as a main use), provided that all facilities are located and all services are conducted within the confines of the lot.
5. Indoor place of amusement, recreation, or assembly.
6. Contractor or general service shop, including plumbing, heating, carpentry, welding cabinet making, furniture repair, upholstery and similar small shop.
7. Warehouse in conjunction with a permitted use or for products of manufacturing uses permitted in the Borough; frozen food locker.
8. Laundry, dry cleaning or clothes cleaning plant, provided that no inflammable liquids are utilized.
9. Trade school.
10. Printing or publishing establishment.
11. The following uses, when authorized by the Zoning Hearing Board as a special exception, subject also to the general standards specified in §1207:
  - A. Outdoor place of amusement, recreation or assembly, provided that satisfactory provisions are made to prevent traffic congestion and hazard.
  - B. Distributing, express, carting, or hauling station.

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- C. Outdoor storage of ice, coal, building materials, highway materials or products of manufacturing uses permitted in the Borough (but not including junkyard, or dump or similar use) and commercial greenhouse, provided that the area used for such use is suitably screened from the surrounding area by a satisfactory fence, wall, planting or other barrier which is not less than six feet in height.
  - D. Car lot or trailer sales agency, distributing, express, or hauling station, provided that satisfactory provisions are made to safeguard highways from undue congestion and hazard.
  - E. Any use of the same general character as any of the above permitted uses, provided that special consideration shall be given to the suitability of the use in the proposed location.
12. Accessory use on the same lot with and customarily incidental to any of the above permitted uses, and signs when erected and maintained in accordance with Part 10 of this Chapter.

(Ord. 264, 7/23/1962, §700, 701)

### **§701. Area, Height and Special Design Regulations.**

Every building hereafter erected or used in whole or in part as a dwelling shall comply with the area and height regulations prescribed for R-1 Residence Districts in §§401 and 403 hereof. For commercial and other buildings no part of which is used as a dwelling, the following area and height regulations shall apply:

- 1. Lot Width. Each use shall have a lot width of not less than 50 feet.
- 2. Building Area. Not more than 65% of the area of each lot may be occupied by buildings.
- 3. Yards. Front, side and rear yards shall be provided on each lot as follows:
  - A. Front Yard. One yard, not less than 35 feet in depth, measured from the street line, subject to the provisions of §1912.
  - B. Side Yards. Two, neither less than 15 feet in width, except that (A) in the case of a corner lot, any side yard which abuts a street shall have a width of not less than the required depth for the front yard of a building fronting on such street and adjoining the corner lot, subject to the provisions of §901, and (B) where a side yard abuts a Residence District or similar district in an adjoining municipality, such side yard shall be not less than 30 feet in width. This requirement shall not prevent the erection of a series or row of attached buildings exclusively for commercial use on one or several adjoining lots.

ing deed lots, provided the group of attached buildings as a single unit meets side yard requirements.

- C. Rear Yard. There shall be a rear yard on each lot which shall be not less than 25 feet in depth.
- 4. Height Regulations. No building shall exceed 35 in height.
  - 5. Special Design Requirements.
    - A. In order to minimize traffic congestion and hazard and to encourage the appropriate development of highway frontage:
      - (1) No parking lot or area for off-street parking or for the storage or movement of motor vehicles shall abut directly a street or highway and each such area shall be separated from the street or highway by a raised curb, planting strip, wall or other suitable barrier against unchanneled motor vehicle entrance or exit, except for necessary accessways.
      - (2) Each separate use or group of buildings constructed as part of an integrated plan shall have not more than two accessways to any one street or highway, and, where practicable, access to parking areas shall be provided by a common service driveway or minor street in order to avoid direct access on a major street or highway. No such accessway shall be more than 24 feet in width.
    - B. No operation, equipment or use shall be objectionable or noxious, offensive or hazardous as defined in §908.

(Ord. 264, 7/23/1962, §702)



## Part 8

### M Manufacturing Districts

#### §800. Use Regulations.

In M Manufacturing Districts, the following regulations shall apply. A building may be erected or used, and a lot may be used or occupied, for any of the following purposes and no other, provided that (1) no use shall create a noxious, offensive, or hazardous condition beyond the district boundary line (See §908.) and (2) each use shall comply with the area, height, and special design requirements of §801 below:

1. Any use permitted in C-2 Commercial Districts, except the following uses which are prohibited:
  - A. Dwelling use, other than living quarters for such persons as watchman, caretakers, and their families as an accessory use to an industrial use;
  - B. Hotel; rooming, tourist or boarding house, motel, tourist cabin court or automobile court.
  - C. Place of amusement, recreation or assembly; and
  - D. Retail store or any other use which involves, as a main use, direct service to the public, except in conjunction with a permitted industrial use, or except on a lot area three acres or larger in size.
2. Laboratory (research, testing, experimental).
3. Central office building or similar establishment.
4. Manufacture of:
  - A. Beverages (nonalcoholic);
  - B. Clothing and other textile products (excluding manufacture of textiles);
  - C. Containers for food products, fruits and vegetables;
  - D. Cosmetics;
  - E. Electrical appliances and supplies, such as lighting fixtures, wiring, toasters, radios (including assembly of such);
  - F. Furniture, industrial and commercial tables, chairs and similar equipment;
  - G. Ice cream, butter, and other dairy products;

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- H. Jewelry, clocks, watches;
  - I. Medical, dental, drafting equipment, optical goods, and other professional and scientific instruments;
  - J. Musical instruments;
  - K. Products from the following previously prepared materials: bone; canvas; ceramics, cork; feathers, felt and hair (excluding washing, curing, dyeing), fur (excluding tanning or dyeing); glass, horn, leather (excluding tanning or leather processing); and small products from previously prepared paper, plastic, rubber (excluding rubber and synthetic processing) shells; wood.
  - L. Toys, tools and hardware.
- 5. Metal stamping, finishing, plating; extrusion of small products and other similar light metal processes.
  - 6. Packing crating, or bottling establishment (not including canning, when conducted within an entirely enclosed building).
  - 7. Printing or publishing establishment.
  - 8. The following additional uses when authorized by the Zoning Hearing Board as a special exception, subject also to the general standards specified in §1207:
    - A. Chemical processes, such as adhesives, bleaching products, blueing, calamine, essential oils, not involving noxious odors or danger from fire or explosion;
    - B. Compounding of pharmaceutical products;
    - C. Food products manufacture and processing (excluding meat and fish);
    - D. Metal or steel products assembly and fabrication; metal treatment and processing such as enameling, galvanizing, and lacquering, provided that refining, smelting, alloying or other basic processes in the manufacture of iron and steel are not permitted;
    - E. Manufacture of large products from the following previously prepared materials: paper, plastic, and rubber.
    - F. Textile manufacture;
    - G. Any use of the same general character as any of the above permitted uses, subject to such additional reasonable safeguards as the Zoning Hearing Board may determine, provided that in no case shall the following uses or

any use substantially similar thereto be permitted: abattoir, bulk storage of fireworks and explosives; fat rendering; dump, incineration or reduction of garbage (except by Borough); leather processing; manufacture of asphalt, cement, noxious or hazardous chemicals, cork, explosives, fertilizer, illuminating gas, glue, ink, iron or steel (including basic processing of products), linoleum, oil cloth, paint, plastics, rubber (including rubber and synthetic processing), soap; petroleum refining; quarry, stone processing; storage of crude oil or any of its volatile products or other highly inflammable liquids in above ground tanks; wood or wood pulp processing.

9. Accessory use on the same lot with and customarily incidental to any of the above permitted uses, and signs when erected and maintained in accordance with the provisions of Part 10 of this Chapter, provided that any area used for outdoor storage shall be suitably screened from the surrounding area by a satisfactory wall, planting or other barrier.

(Ord. 264, 7/23/1962, §800, 801)

**§801. Area, Height, and Special Regulations.**

1. Lot, Area and Lot Width. A lot area not less than one acre per use, and a minimum lot width of 150 feet shall be provided.
2. Building Area. Not more than 60% of the area of each lot may be occupied by buildings.
3. Yards. The following yards shall be provided on each lot:
  - A. Front Yard. One yard, not less than 50 feet in depth, subject to the provisions of §912.
  - B. Side Yards. Two yards, not less than 60 feet in aggregate width, and neither less than 30 feet; except that in the case of a corner lot, any side yard which abuts a street shall have a width of not less than the required depth for the front yard of a building fronting on such street and adjoining the corner lot, subject to the provisions of §901.
  - C. Rear Yard. One yard not less than 40 feet in depth.
4. Height Regulations. No building shall exceed 40 feet, or two stories in height.
5. Special Design Requirements. Each use shall comply with the special access regulations prescribed for C-2 Districts in §701(5)(A), and shall be designed, arranged, and conducted in a manner which will not detract materially from the character of the immediately surrounding area. Each such use shall:

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- A. Provide a buffer yard of not less than 150 feet in width along any Residence District, or Borough boundary line. This required yard shall be measured from the boundary line, or from the street line where a street constitutes the boundary. The 50 feet of such yard space nearest the district or Borough boundary line shall be used as a planting strip, on which shall be placed hedge, evergreens, shrubbery, or other suitable planting or screening. The remaining 100 feet of space may be used for off-street parking or for any permitted purpose other than a building or permanent structure, or any processing activity.
- B. Provide and utilize such smoke, odor, dust, noise, or other control devices as are necessary to insure that the use will not constitute a nuisance or an objectionable condition as defined in §908.
- C. Comply with the off-street parking and loading requirements of §§909 and 910.
- D. Make adequate provision for water supply, and sewage and waste disposal.

(Ord. 264, 7/23/1962, §802)

**Part 9**

**General Regulations**

**§900. Nonconforming Buildings or Uses.**

1. Continuation. Any lawful use of a building or land existing or authorized by a building permit at the effective date of this Chapter may be continued or altered although such does not conform to the provisions of this Chapter. It shall be the intent of this Section, however, that the conversion of a nonconforming building or use to a conforming use is to be encouraged to such extent as is reasonable.
2. Extension.
  - A. The nonconforming use of land, or a nonconforming use which is not entirely enclosed in a building shall not be extended.
  - B. The nonconforming use of a building may be extended throughout a building, or a building which is devoted to a nonconforming use may be extended on a lot up to 50% of the area occupied by such use at the effective date of this Chapter; provided that any such extension or enlargement shall be immediately adjacent to the existing nonconforming use and shall conform to the area and height requirements of the district in which it is situated.
  - C. An existing nonconforming structure may be expanded up to 50% of the area existing as of the effective date of this Chapter except that any such expansion shall not increase any nonconformity and shall otherwise conform to all other area and height requirements of the district in which it is situated.
3. Changes. A nonconforming use of a building or land may be changed to a nonconforming use of the same or more restricted classification, when authorized as a special exception by the Zoning Hearing Board. Whenever a nonconforming use of a building or land has been changed to a use of a more restricted classification or to a conforming use, such use shall not thereafter be changed to a use of a less restricted classification.
4. Restoration or Structural Repair. A nonconforming building wholly or partially destroyed by fire, explosion, flood or other phenomenon, legally condemned, or in need of structural repair or restoration may be reconstructed, repaired and used for the same nonconforming use, when authorized by the Zoning Hearing Board as a special exception; provided, that (A) the Board shall determine that the proposed building is at least as appropriate, in its location, as the building reconstructed or repaired, and (B), in the case of destruction, building reconstruction shall be commenced within one year from the date the building was destroyed or condemned and shall be in conformity with the provisions of this Chapter.

(Ord. 264, 7/23/1962, §900; as amended by Ord. 566, 12/13/1995)

**§901. Nonconforming Lots.**

1. Held in Single and Separate Ownership. A building may be erected or altered on any lot held, as evidenced by a public record, at the effective date of this Chapter in single and separate ownership which is not of the required minimum area or width or is of such unusual dimensions that the owner would have difficulty in providing the required open spaces for the district in which such lot is situated, provided plans for the proposed work shall be approved by the Zoning Hearing Board, after review of such plans to assure reasonable compliance with the spirit of the zoning regulations for the district; or providing further, that if the lot is a corner lot in an already developed area wherein either back yards or side yards abut a street adjacent to said corner lot, then the front yard of the corner lot shall be the area adjacent to the street which is designated as the address of said lot and the side yard shall be the area adjacent to the alternate street in which case the requirements of §502(3)(B), shall not apply as to the requirements that the depth of the side yard shall be the same as the depth of the front yard but need only meet the requirement of the five feet side yard restrictions.
2. Included in Recorded Plans. Buildings may be erected on lots which are not held, as evidenced by a public road, in single and separate ownership at the effective date of the enactment of this Chapter and which are not of the required area or width, if such lots are included in a land subdivision and development plan which has been approved by Borough Council within three years prior to the effective date of this Chapter.

(Ord. 264, 7/23/1962, §901; as amended by Ord. 349, 8/13/1975)

**§902. Reduction of Lot.**

No lot area shall be so reduced that the area of the lot or the dimensions of the open spaces shall be smaller than herein prescribed. (Ord. 264, 7/23/1962, §902)

**§903. Conversion of Dwelling to Two or Multiple Family Use.**

The Zoning Hearing Board may authorize as a special exception in RA, R-1, C-1 and C-2 Districts the conversion of a dwelling to a dwelling for not more than three families, subject to the following requirements:

1. The lot area per family, and the yard requirements applicable to a dwelling shall not be reduced to less than the requirements of the district in which the lot is located, except that where a lot is served by both public water and sanitary sewer facilities and is located in an RA or R-1 District the lot area per family may be reduced to not less than 8,000 square feet in an RA District and to not less than 5,000 square feet in an R-1 District.

2. No structural alteration of the building exterior shall be made except as may be necessary for purposes of sanitation or safety.
3. Such conversion shall be authorized only for a large building which has relatively little economic value or usefulness as a single-family dwelling or conforming use.
4. The Zoning Hearing Board may prescribe such further conditions with respect to the conversion and use of such building as it deems appropriate in accordance with §1207.

(Ord. 264, 7/23/1962, §903)

#### **§904. Certain Public Utility Buildings Exempted.**

This Chapter shall not apply to any existing or proposed building or extension thereof, used or to be used by a public utility corporation, if upon petition of such corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public. (Ord. 904, 7/23/1962, §904)

#### **§905. Access.**

No dwelling shall hereafter be erected or undergo basic structural alteration unless an open space, not less than 50 feet in width, is provided, which open space shall extend from the building line of the dwelling to a street. Such open space shall be provided on the lot on which the dwelling is erected. No building shall hereafter be erected or undergo basic structural alteration so as to close the present means of access to an existing dwelling or so as to diminish this means of access to a width less than 50 feet. (Ord. 264, 7/23/1962, §905)

#### **§906. Exception for Private Garage or Accessory Building.**

No structure may be located in a required yard, except in accordance with the provisions of this §906. This §906 does not apply to nonhabitable accessory structures less than 500 square feet in area for which no Building Code review is required in accordance with the Pennsylvania Uniform Construction Code.<sup>1</sup> All such exempt structures may only be placed in compliance with the applicable required setbacks of the zoning district for main buildings, except that nonhabitable accessory structures less than 500 square feet in area may be placed in accordance with the following yard exception criteria if the applicant chooses to erect a structure which is subject to Building Code review and permitting. A private garage or one-story accessory building (other than a stable) which is not an integral structural part of a main building may be located in the required side

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<sup>1</sup> Editor's Note: See Ch. 5, Part 1.

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and/or rear yard but not less than three feet from any property line, provided that it is situated not less than 10 feet further back from the street line (on which the main building fronts) than the rearmost portion of the main building, except that no such garage or building shall be located in a side yard which abuts a street, unless otherwise provided below. A garage may front on a rear street or, in an R-2 District, on a side street where the fronting of such a garage on a rear street is not practicable, provided that in no case shall the garage be located less than two feet from the street line nor less than three feet from any other property line. Nothing in this §906 shall be construed to prohibit the erection of a common or joint garage which is not an integral structural part of a main building on adjoining lots. (Ord. 264, 7/23/1962, §907; as amended by Ord. 680, 8/11/2004)

### **§907. Vision Obstruction.**

On any corner lot, or at any accessway, no wall, fence or other structure shall be erected or altered, and no hedge, tree, shrub, or other growth shall be maintained, which may cause danger to traffic on a street by obscuring the view. (Ord. 264, 7/23/1962, §907)

### **§908. Prohibited Uses.**

1. No building may be erected, altered, or used, and no lot or premises may be used in a Residence or Commercial District for any use which is noxious or offensive by reason of odor, dust, vibration, illumination, or noise, or which constitutes a public hazard whether by fire, explosion, or otherwise in the immediately surrounding area. In an M Manufacturing District, no use which shall create a noxious, offensive, or hazardous condition beyond a manufacturing district boundary line shall be permitted.
  - A. In determining whether a proposed use is or may become noxious, hazardous or offensive, the proposed use or operation shall comply with the following performance standards and with any more specific standards of a nationally recognized professional agency for a particular industry as may subsequently be adopted by Borough Council by ordinance or resolution. The proposed operation or use shall not:
    - (1) Constitute a public nuisance, or damage to health, livestock, vegetable or any other property by reason of noxious, toxic, or corrosive fumes, smoke, odor, or dust. There shall be no emission of odorous gases or odorous matter in such quantities as to be offensive at any property line, or in the case of a use in an M District, at the district boundary line.
    - (2) Result in noise or vibration clearly exceeding the average intensity of noise or vibration occurring from other causes at the property line, or in the case of a use in an M District, beyond the district boundary line.

- (3) Endanger surrounding areas by reason of fire or explosion. No flammable or explosive materials shall be stored in bulk above ground, provided, however, that accessory fuel tanks connecting with eating, energy or other devices located on the same lot are excluded from this provision.
- (4) Produce objectionable heat, glare, or radiation beyond the property line, or in the case of a use in an M District, beyond the district boundary line.
- (5) Result in electrical disturbance on properties other than on the property on which the disturbance is located.
- (6) Discharge any untreated sewage or industrial waste into any stream, or underground waters.
- (7) Result in congestion or hazardous traffic conditions on the street or in an adjacent area, or generate a nuisance to surrounding property by reason of truck traffic.
- (8) Endanger the underground water level or supply to other properties.
- (9) Create any other objectionable condition in an adjoining area which will endanger public health and safety or be detrimental to the proper use of the surrounding area. No materials or wastes shall be stored or deposited outdoors in such a form that they may be transferred off the lot by natural causes, and any materials attractive to rodents or insects shall be stored outdoors only in closed containers.

- B. The applicant when requested shall demonstrate that (1) the proposed use will comply with the standards contained in Subsection (A) of this §908, and such other standards as may have been adopted by Borough Council, and (2) adequate provisions will be made to reduce and minimize any objectionable elements to the degree necessary to insure that the proposed use will not be noxious, hazardous, or offensive. In order to determine that adequate safeguards are provided, the Zoning Officer or the Zoning Hearing Board in any case where a use is made subject to special exception, may (1) require that the applicant submit necessary information, impartial expert judgments, and written assurances; (2) obtain the advice of official agencies or of private consultants; and (3) require that the use comply with such tests or provide such safeguards as may be deemed necessary.

2. A trailer camp shall not be permitted in any district.

(Ord. 264, 7/23/1962, §908)

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### **§909. Off-Street Parking Space.**

In all Districts off-street parking space shall be provided as follows:

1. Not less than one off-street parking space, with proper access from a street or alley, shall be provided on any lot on which a dwelling is hereafter erected or converted, provided that for multiple dwellings, one space for each housekeeping unit shall be provided.
2. Off-street parking space, with proper access from a street or alley, shall be provided in the amounts indicated below, on or near any lot on which the following types of uses are hereafter established, provided that the Zoning Hearing Board may decrease these requirements in any case where sufficient vacant space is not available on the lot or within 300 feet of the lot and where the unreasonableness of these regulations is clearly demonstrated. In any case, however, the Board shall require that the requirements of this §909 shall be construed to prevent the establishment of joint parking facilities for two or more uses.
  - A. Hotel, motel, tourist house, or similar establishment: One space for each rental room or suite.
  - B. Restaurant, eating or drinking establishment: One space for each 50 square feet of floor space devoted to patron use.
  - C. Theater, auditorium, or other place of public assemblage, except churches: One space for every five seats.
  - D. Commercial, office, or recreational building or use, other than those specified above: One space for each 100 square feet, or portion thereof, of gross floor area devoted to patron or office use.
  - E. Industrial establishment: One space for each two employees on the largest shift.
3. Each off-street parking space shall have a minimum area of not less than 200 square feet and, in addition, appropriate driveways, aisles, and maneuvering spaces shall be provided which shall be adequate to permit safe and convenient use of the area for parking purposes.
4. Parking areas shall be graded to provide convenient vehicular access and proper drainage, and shall be paved with a hard or semi-hard material or otherwise treated to prevent dust or other loose cover from becoming a nuisance or a hazard. All parking, access, or other vehicular service areas shall be adequately illuminated during night hours of use. Such lighting shall be arranged so as to protect the highway and adjoining property from direct glare or hazardous interference of any kind.

5. Off-street parking facilities existing at the effective date of this Chapter shall not subsequently be reduced to an amount less than that required under this Chapter for a similar new building or new use. Off-street parking facilities provided to comply with the provisions of this Chapter shall not subsequently be reduced below the requirements of this Chapter.

(Ord. 264, 7/23/1962, §909)

#### **§910. Loading and Unloading Space.**

Off-street loading and unloading space, with proper access from a street or alley shall be provided on any lot on which a building for trade or business is hereafter erected or substantially altered. (Ord. 264, 7/23/1962, §910)

#### **§911. Temporary Use Permit.**

A temporary permit may be authorized by the Zoning Hearing Board for a nonconforming structure or use which it deems beneficial to the public health or general welfare or which it deems necessary to promote the proper development of the community, provided that such nonconforming structure or use shall be completely removed upon expiration of the permit without cost to the Borough such a permit shall be issued for a specified period of time not exceeding one year, and may be renewed annually, for an aggregate period of not more than three years including the original authorization. (Ord. 264, 7/23/1962, §911)

#### **§912. Front Yard Exception.**

The front yard of a proposed building may be decreased in depth to the average alignment of existing buildings within 100 feet on each side of the proposed building and within the same block, if such alignment of existing buildings is less than the front yard requirement for the district. (Ord. 264, 7/23/1962, §912)

#### **§913. Water Supply and Sanitary Sewage Disposal.**

Where a lot is used for purposes necessitating water supply and/or sanitary sewage disposal, such lot shall be required, if accessible to a public water system and/or a public sewage system, to be connected thereto; or, if such property is not accessible to such water system and/or sewage system, any facilities installed and/or used shall comply with applicable building and plumbing codes and any Borough, County and State health regulations, and a certificate indicating the adequacy of water supply and/or sewage disposal facilities shall be required from the Board of Health or other appropriate governmental agency. (Ord. 264, 7/23/1962, §913)

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### **§914. Setback Exceptions for Swimming Pools.**

No swimming pool shall be erected or located in any front yard nor shall the same be erected or located within six feet of the property line of any side or rear yard in any zoning district within the Borough of Mohnton.

(Ord. 698, 2/2/2005)

## Part 10

### Signs

#### **§1000. Use and Location Regulations.**

Any sign hereafter erected or maintained shall conform with the provisions of this Part 10 and any other ordinance or regulations of the Borough. The following types of signs, and no other shall be permitted:

1. Official Traffic Signs.
2. Professional Accessory Use or Name Signs. Indicating the name, profession, or activity of the occupant of a dwelling, and trespassing signs, or signs indicating the private nature of a driveway or premises, provided that the area on one side of any such sign shall not exceed two square feet.
3. Identification Signs. For schools, churches, hospitals, clubs, lodges, or similar uses, provided that the area on one side of any such sign shall not exceed 12 [square] feet.
4. Real Estate Signs. Including signs advertising the sale or rental of premises, provided the area on one side of any such sign shall not exceed 10 square feet; and signs indicating the location and direction 10 square feet; and signs indicating the location and direction of premises in the process of development, provided the area on one side of any such sign shall not exceed 20 square feet.
5. Temporary Signs. Of contractors, architects, mechanics, and artisans, provided that such signs shall be removed promptly within 30 days of completion of work.
6. Business or Industrial Signs. In Commercial and Manufacturing Districts only, provided that:
  - A. Such signs, except directional signs, are placed on the premises on which the use to which the sign relates is conducted, and
  - B. The total area on one side of all such signs placed on, or facing any one street frontage of any one premises, shall not exceed 100 square feet or 15% of the overall surface of the wall facing such frontage, whichever is greater.

The area on one side of a directional sign shall not exceed 25 square feet. The size limitations herein prescribed may be exceeded when authorized as a special exception by the Zoning Hearing Board in the case of an integrated shopping center or unusual use.

(Ord. 264, 7/23/1962, §§1000,1001)

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### **§1001. General Sign Regulations.**

The following regulations shall apply to all permitted sign uses:

1. No sign shall be placed in such a position that it will cause danger to traffic on a street by obscuring the view.
2. No sign other than official traffic sign shall be erected within or shall project over any street line or a public sidewalk unless specifically authorized by other Borough ordinances and regulations.
3. No sign shall be of a flashing type.
4. In addition to the other requirements of this Part 10, every sign referred to in this Part 10 must be constructed of durable materials, must be kept in good condition and repair, and shall not be allowed to become dilapidated.

(Ord. 264, 7/23/1962, §1002)

## Part 11

### Administration

#### **§1100. Appointment and Powers of Zoning Officer.**

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

(Ord. 264, 7/23/1962, §1100; as amended by Ord. 515, 6/10/1992)

#### **§1101. Requirement of Permit.**

A permit shall be required prior to the erection, structural alteration, or initial occupancy of any building, structure or portion thereof, and prior to the use or change in use of a building or land from one district classification to another, and prior to the change or extension of a nonconforming use. In addition to the requirements of this Chapter, all applicable requirements of the Mohnton Building Code and Plumbing Code must be complied with, including those with respect to application for and issuance of permits thereunder. Any signs permitted under this Chapter, the area on one side of which is 12 square feet or less in size, shall be exempt from the Zoning Permit requirements of this §1101. Applications for permits shall be made in writing to the Zoning Officer on such forms as may be furnished by the Borough. Such application shall contain all information necessary for the Zoning Officer to ascertain whether the proposed erection, alteration, use, or change in use complies with the provisions of this Chapter. (Ord. 264, 7/23/1962, §1101; as amended by Ord. 515, 6/10/1992)

#### **§1102. Issuance of Permits.**

Permits shall be granted or refused within 10 days after the written application has been filed with the Zoning Officer. Upon completion of the erection or alteration of any building or portion thereof authorized by any permit, and prior to occupancy or use, the holder of such permit shall notify the Zoning Officer of such completion. No permit shall be considered complete or permanently effective until the Zoning Officer has certified

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that the work has been inspected and approved as being in conformity with the provisions of this Chapter and other applicable ordinances, and has issued a release for occupancy or use. Temporary permits may be issued in accordance with §911. (Ord. 264, 7/23/1962, §1102; as amended by Ord. 515, 6/10/1992)

### **§1103. Registration of Nonconforming Uses.**

The Zoning Officer shall make and maintain a list of nonconforming uses within the Township. Upon enactment or amendment of this Chapter the owners or occupants of nonconforming uses or structures shall have three months to notify in writing the Zoning Officer that they own or occupy a nonconforming use and shall indicate specifically wherein the nonconforming use differs from the provisions of this Chapter. Upon written request from an applicant, the Zoning Officer shall issue a Certificate of Occupancy for any building or premises existing at the time of passage of this Chapter certifying after inspection the extent and kind of use made of the building or premises, and whether such use conforms to the provisions of this Chapter. (Ord. 264, 7/23/1962, §1103; as amended by Ord. 515, 6/10/1992)

### **§1104. Fees.**

Fees for permits shall be paid in accordance with a Fee Schedule to be adopted by Borough Council and all such fees shall be paid into the Borough Treasury. Each applicant for an appeal, special exception, or variance shall, at the time of making application, pay a fee, in accordance with the aforementioned Fee Schedule, for the cost of advertising and mailing notices as required by this Chapter and the Rules of the Zoning Hearing Board. (Ord. 264, 7/23/1962, §1104)

## Part 12

### Zoning Hearing Board

#### §1200. Zoning Hearing Board.

1. There is hereby created for the Borough a Zoning Hearing Board in accordance with the provisions of Article IX of the Pennsylvania Municipalities Planning Code, 53 P.S. §10901 et seq.
2. The membership of the Board shall consist of three residents of the Borough appointed by resolution by the Borough Council. The terms of office shall be for three years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Borough.
3. Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Borough Council which appointed the member, taken after the member has received 15 days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.
4. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action a quorum shall be not less than a majority of all the members of the Board, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided in this Chapter.
5. The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the Borough and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the Borough and shall submit a report of its activities to the Borough Council as requested by the Borough Council.
6. Within the limits of funds appropriated by the Borough Council, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties, as may be fixed by the Borough Council, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Borough Council.

(Ord. 264, 7/23/1962, §§1200-1203; as amended by Ord. 515, 6/10/1992)

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### **§1201. Hearings.**

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

1. Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by rules of the Board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.
2. The hearing shall be held within 60 days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.
3. The hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board, however, the appellant or the applicant, as the case may be, in addition to the Borough, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.
4. The parties to the hearing shall be the Borough, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
5. The chairman or acting chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
6. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
7. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
8. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the per-

son requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

9. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
10. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of this Chapter or of any law, ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than 30 days after the report of the hearing officer. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within 60 days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of the said decision within 10 days from the last day it could have met to render a decision in the same manner as provided in subsection (1) of this Section. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
11. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.
12. The Borough Council shall establish, by resolution, fees with respect to hearings before the Zoning Hearing Board.

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(Ord 264, 7/23/1962, §1205; as amended by Ord. 515, 6/10/1992)

### **§1202. Jurisdiction.**

1. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
  - A. Substantive challenges to the validity of any land use ordinance, except those brought before the Borough Council pursuant to §§609.1 and 916.1(a)(2) of the Pennsylvania Municipalities Planning Code (hereinafter “MPC”), 53 P.S. §§10609.1, 10916.1.
  - B. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within 30 days after the effective date of said ordinance. Where the ordinance appealed from is the initial zoning ordinance of the Borough and a Zoning Hearing Board has not been previously established, the appeal raising procedural questions shall be taken directly to court.
  - C. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
  - D. Appeals from a determination by the Borough engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance.
  - E. Applications for variances from the terms of this Chapter and flood hazard ordinance or such provisions within a land use ordinance, pursuant to §910.2 of the MPC, 53 P.S. §10910.2.
  - F. Applications for special exceptions under this Chapter or floodplain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to §912.1 of the MPC, 53 P.S. §10912.1.
  - G. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this Chapter.
  - H. Appeals from the Zoning Officer’s determination under §916.2 of the MPC, 53 P.S. §10916.2.
  - I. Appeals from the determination of the Zoning Officer or Borough engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water manage-

ment insofar as the same relate to development not involving applications under Article V or VII of the MPC, 53 P.S. §§10501 et seq., 10701 et seq.

2. The Borough Council, shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
  - A. All applications for approvals of planned residential developments under Article VII of the MPC pursuant to the provisions of §702 of the MPC, 53 P.S. §10702.
  - B. All applications pursuant to §508 of the MPC, 53 P.S. §10508, for approval of subdivisions or land developments under Article V of the MPC, 53 P.S. §10501 et seq.
  - C. Applications for conditional use under the express provisions of this Chapter.
  - D. Applications for curative amendment to this Chapter or pursuant to §§609.1 and 916.1(a) of the MPC, 53 P.S. §§10609.1, 10916.1(a).
  - E. All petitions for amendments to land use ordinances, pursuant to the procedures set forth in §609 of the MPC, 53 P.S. §10609.
  - F. Appeals from the determination of the Zoning Officer or the Borough engineer in the administration of any land use ordinance or provisions thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to applications for land development under Articles V and VII of the MPC, 53 P.S. §§10501 et seq., 10701 et seq. Where such determination relates only to development not involving an Article V or VII application, the appeal from such determination of the Zoning Officer or the Borough engineer shall be to the Zoning Hearing Board pursuant to this Section. Where the applicable land use ordinance vests jurisdiction for final administration of subdivision and land development applications in the Planning Commission, all appeals from determinations under this subsection shall be to the Planning Commission and all appeals from the decision of the Planning Commission shall be to court.

(Ord. 264, 7/23/1962, §1204; as amended by Ord. 515, 6/10/1992)

### **§1203. Parties Appellant Before the Board.**

Appeals raising the substantive validity of any land use ordinance (except those to be brought before the Borough Council pursuant to the Pennsylvania Municipalities Code, procedural questions or alleged defects in the process of enactment or adoption of a land use ordinance; or from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease and desist order or the registration or refusal to register

## ZONING

any nonconforming use, structure or lot; from a determination by the Borough engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance; from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this Chapter; from the determination of the Zoning Officer or Borough engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving subdivision and land development or planned residential development may be filed with the Zoning Hearing Board in writing by the landowner affected, any officer or agency of the Borough, or any person aggrieved. Requests for a variance and for special exception may be filed with the Board by any landowner or any tenant with the permission of such landowner. (Ord. 264, 7/23/1962, §1204; as amended by Ord. 515, 6/10/1992)

### **§1204. Time Limitations.**

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

(Ord. 264, 7/23/1962; as added by Ord. 515, 6/10/1992)

### **§1205. Stay of Proceedings.**

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

proved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board.

2. After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.
3. The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.
4. If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order of the court below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by the petitioner.

(Ord. 264, 7/23/1962; as added by Ord. 515, 6/10/1992)

#### **§1206. Appeal to Court.**

Any appeal to court from a decision or determination made pursuant to this Chapter shall be made in accordance with the provisions of Article X-A of the Pennsylvania Municipalities Planning Code, 53 P.S. §11001-A et seq. (Ord. 264, 7/23/1962, §1206; as amended by Ord. 515, 6/10/1992)

#### **§1207. Review of Proposed Exception or Variance.**

In any instance where the Zoning Hearing Board is required to consider an exception or variance in the Zoning Ordinance or Map in accordance with the provisions of this Chapter, the Zoning Hearing Board shall, among other things:

1. Assure itself that the proposed exception or variance is consistent with the spirit, purpose and intent of this Zoning Chapter, and is such as will promote the health, safety, morals or general welfare of the community.

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2. Determine that the proposed change will not substantially injure or detract from the use of neighboring property or from the character of the neighborhood and that the use of the property adjacent to the area included in the proposed change or plan is adequately safeguarded.
3. Determine that the proposed change will serve the best interests of the Borough, the convenience of the community (where applicable), and the public welfare.
4. Consider the effect of the proposed change upon the logical, efficient, and economical extension of public services and facilities such as public water, sewers, police and fire protection, and public schools.
5. Ascertain the adequacy of sanitation and public safety provisions, where applicable, and require a certificate of adequacy of water supply and/or sewage facilities from the Board of Health or other appropriate governmental agency in any case required herein or deemed advisable.
6. Impose such conditions, in addition to those required, as are necessary to assure that the intent of this Zoning Chapter is complied with, which conditions may include, but are not limited to, harmonious design of buildings, planting and its maintenance as a sight or sound screen, and the minimizing of noxious, offensive or hazardous elements.

(Ord. 264, 7/23/1962, §1207)

### **§1208. Variances.**

1. The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this Chapter inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:
  - A. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Chapter in the neighborhood or district in which the property is located.
  - B. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
  - C. That such unnecessary hardship has not been created by the applicant.

- D. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
  - E. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
2. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 et seq.

(Ord. 264, 7/23/1962; as added by Ord. 515, 6/10/1992)

**§1209. Special Exceptions.**

Where the Borough Council, in this Chapter, has stated special exceptions to be granted or denied by the Zoning Hearing Board pursuant to express standards and criteria, the Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Chapter, as it may deem necessary to implement the purposes of this Chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 et seq. (Ord. 264, 7/23/1962; as added by Ord. 515, 6/10/1992)



**Part 13**

**Definitions; Amendments; Remedies; Penalties**

**§1300. Definition of Terms.**

Unless otherwise expressly stated, the following words and phrases shall be construed throughout this Chapter to have the meanings herein indicated. The singular shall include the plural, and the plural shall include the singular. The word “used” shall include the words “arranged,” “designed,” or “intended to be used.” The word “building” shall include the word “structure.” The present tense shall include the future tense.

ACCESSORY BUILDING — a building subordinate to the main building on a lot and used for purposes customarily incidental to those of the main building.

ACCESSORY USE — a use subordinate to the main use of land or of a building on a lot and customarily incidental thereto.

APPLICATION FOR DEVELOPMENT — every application, whether preliminary, tentative or final required to be filed and approved prior to start of construction or development including but not limited to an application for a building permit, for the approval of a subdivision plat or plan or for the approval of a development plan. [Ord. 515]

BOARD — any body granted jurisdiction under a land use ordinance or under this Chapter to render final adjudications. [Ord. 515]

BUILDING — a structure or appendage to a structure permanently affixed to the ground, built, erected and framed of component structural parts, designed for the housing, shelter, enclosure or support of humans, animals or property of any kind, or in the case of a mobilehome, connected in any fashion to any source of electricity, gas, heating fuel, telephone, or to a sewage disposal or water system of any type.

- A. DETACHED — a building which has no party wall.
- B. SEMI-DETACHED — a building which has only one party wall in common with an adjacent building.
- C. ATTACHED — a building which has two party walls in common with adjacent buildings.

[Ord. 515]

BUILDING AREA — the aggregate of the maximum horizontal cross-section areas, excluding cornices, eaves, and gutters, of all buildings on a lot.

## ZONING

**BUILDING LINE** — the line parallel to the street line at a distance therefrom equal to the depth of the required front yard.

**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 a development, not including streets, off-street parking areas, and areas set aside for public facilities. [Ord. 515]

**DECISION** — final adjudication of any board or other body granted jurisdiction under any land use ordinance or this Chapter to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the court of common pleas of the county and judicial district wherein the Borough lies. [Ord. 515]

**DEVELOPER** — any landowner, agent of such landowner, or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development. [Ord. 515]

**DEVELOPMENT PLAN** — the provisions for development including a planned residential development, a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities. The phrase “provisions of development plan” when used in this Chapter shall mean the written and graphic materials referred to in this definition. [Ord. 515]

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

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

[Ord. 515]

**DWELLING** –

- A. **SINGLE-FAMILY** — a building, on a lot, designed and occupied exclusively as a residence for one family. Any mobile home or trailer permitted under Borough ordinance and used individually on a lot for residence purposes

shall comply with the provisions of this Chapter applicable to single-family dwellings.

- B. TWO-FAMILY — a building on a lot, designed and occupied exclusively as a residence for two families.
- C. MULTIPLE OR APARTMENT — a building, on a lot, designed and occupied exclusively as a residence for three or more families.

ELECTRIC SUBSTATION — an assemblage of equipment for purposes other than generation or utilization, through which electric energy in bulk is passed for the purposes of switching or modifying its characteristics to meet the needs of the general public, provided that in residence districts an electric substation shall not include rotating equipment, except as is incidental to the operation of the substation as such, storage of materials, trucks or repair facilities, or housing of repair crews.

FAMILY — any number of persons living and cooking together as a single house-keeping unit.

FARM BUILDING — any building used for storing agricultural equipment or farm produce, housing livestock or poultry, and processing dairy products. The term “farm building” shall not include a dwelling.

HEIGHT OF BUILDING — a building’s vertical measurement from the mean level of the ground abutting the building to a point midway between the highest and lowest points of the roof; provided that chimneys, spires, towers, elevator penthouses, tanks, and similar projections of the building, and structures supporting utility or transmission facilities, shall not be included in calculating the height.

LAND DEVELOPMENT — any of the following activities:

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

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

[Ord. 515]

LOT — a designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit. [Ord. 515]

MOBILEHOME — a transportable, single family dwelling intended for permanent occupancy, contained in one unit or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation. [Ord. 515]

MOBILEHOME LOT — a parcel of land in a mobilehome park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobilehome. [Ord. 515]

MOBILEHOME PARK — a parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobilehome lots for the placement thereon of mobilehomes. [Ord. 515]

MUNICIPAL AUTHORITY — a body politic and corporate created pursuant to the Act of May 2, 1945 (P.L. 382, No. 164), known as the “Municipalities Authority Act of 1945.” [Ord. 515]

NONCONFORMING LOT — a lot the area or dimension of which was lawful prior to the adoption or amendment of this Chapter, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption or amendment. [Ord. 515]

**NONCONFORMING STRUCTURE** — a structure or part of a structure manifestly not designed to comply with the use or extent of use provisions of this Chapter or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of this Chapter or amendment or prior to the application of this Chapter or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs. [Ord. 515]

**NONCONFORMING USE** — a use, whether of land or of structure, which does not comply with the applicable use provisions in this Chapter or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this Chapter or amendment, or prior to the application of this Chapter or amendment to its location by reason of annexation. [Ord. 515]

**PARKING SPACE** — an open space or a garage, on a lot, used for parking motor vehicles, the area of which is not less than 200 square feet and to which there is access from a street.

**PLANNED RESIDENTIAL DEVELOPMENT** — an area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, or combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling, or use, density or intensity, lot coverage and required open space to the regulations established in any one district created, from time to time, under the provisions of this Chapter. [Ord. 515]

**PRIVATE GARAGE** — an accessory building used for the storage of any number of motor vehicles owned and used by the owner or tenant of the premises, and for the storage of not more than two motor vehicles owned and used by persons other than the owner or tenant of the premises. No more than one commercial vehicle may be stored in a private garage in a Residence District.

**PUBLIC GARAGE** — a building, not a private garage, used primarily for the storage and/or repair of motor vehicles of any type or ownership.

**PUBLIC GROUNDS** — includes:

- A. Parks, playgrounds, trails, paths and other recreational areas and other public areas;
- B. Sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities; and
- C. publicly owned or operated scenic and historic sites.

[Ord. 515]

## ZONING

**PUBLIC HEARING** — a formal meeting held pursuant to public notice by the Borough Council or Planning Commission, intended to inform and obtain public comment, prior to taking action in accordance with this Chapter. [Ord. 515]

**PUBLIC MEETING** — a forum held pursuant to notice under the Act of July 3, 1986 (P.L. 388, No. 84), known as the “Sunshine Act,” 53 P.S. §§271 et seq. [Ord. 515]

**PUBLIC NOTICE** — notice published once each week for two successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing. [Ord. 515]

**REPORT** — any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to any proceeding upon request, and copies thereof shall be provided at cost of reproduction. [Ord. 515]

**SANITARY SEWER FACILITY** — a public sanitary sewer system, or a comparable common, or package sanitary sewer facility approved by the appropriate governmental health agency.

**SHOPPING CENTER** — any group of three or more stores or related commercial buildings or uses, developed in accordance with an integrated plan and served by common parking and/or service areas.

**SINGLE AND SEPARATE OWNERSHIP** — the ownership of a lot by one or more persons, partnerships, or corporations, which ownership is separate and distinct from that of any adjoining lot.

**SPECIAL EXCEPTION** — a use permitted in a particular zoning district pursuant to the provisions of this Chapter and Articles VI and IX of the Pennsylvania Municipalities Planning Code, 53 P.S. §§10601 et seq., 10901 et seq. [Ord. 515]

**STREET** — includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct or any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private. [Ord. 515]

**STREET LINE** — the dividing line between a lot and the outside boundary of the right-of-way of a street. Where a street line has not been established it shall be computed as not less than 12 1/2 feet from the center of the existing street.

**STRUCTURAL ALTERATION** — any change in or addition to the supporting members of a building or structure, such as bearing wall partitions, columns, beams or girders.

**STRUCTURE** — any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the ground. Structures include, but are not limited to, buildings, factories, sheds, cabins, mobilehomes, signs, tents, tanks and towers. [Ord. 515]

**SUBDIVISION** — the division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted. [Ord. 515]

**SUBSTANTIALLY COMPLETED** — where in the judgment of the Borough engineer, at least 90% (based on the cost of the required improvements for which financial security was posted pursuant to the requirements of this Chapter) of those improvements required as a condition for final approval have been completed in accordance with the approved plan, so that the project will be able to be used, occupied or operated for its intended use. [Ord. 515]

**TELEPHONE CENTRAL OFFICE** — a building and its equipment erected and used for the purpose of facilitating transmission and exchange of telephone or radio-telephone messages between subscribers, and other business of the telephone company; but in residence districts not to include public business facilities, storage of materials, trucking or repair facilities, or housing of repair crews.

**TRAILER CAMP** — a lot or premises used for occupancy by two or more trailers (mobile homes) or any other vehicles used for living or sleeping purposes.

**YARDS** –

- A. **FRONT** — the required open space, extending along the street line throughout the full width of the lot, exclusive of overhanging eaves, gutters, cornices, and steps.
- B. **SIDE** — the required open space, extending along the side line of the lot throughout the full depth of the lot, exclusive of overhanging eaves, gutters, cornices, and steps.

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- C. REAR — the required open space, extending along the rear street line, or in the absence of a street line the rear property line, of the lot throughout the full width of the lot, exclusive of overhanging eaves, gutters, cornices, and steps.

VARIANCE — relief granted pursuant to the provisions of this Chapter and Articles VI and IX of the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 et seq. [Ord. 515]

WATER SURVEY — an inventory of the source, quantity, yield and use of groundwater and surface-water resources within the Borough. [Ord. 515]

(Ord. 264, 7/23/1962, §1300; as amended by Ord. 515, 6/10/1992)

### **§1301. Enactment of Zoning Ordinance Amendments.**

1. The Borough Council may from time to time amend, supplement, or repeal any of the regulations and provisions of this Chapter. The procedure for the preparation of a proposed zoning ordinance as set forth in §607 of the Pennsylvania Municipalities Planning Code, 53 P.S. §10607, is hereby declared optional.
2. Before voting on the enactment of an amendment, the Borough Council shall hold a public hearing thereon, pursuant to public notice. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the Borough at points deemed sufficient by the Borough along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.
3. In the case of an amendment other than that prepared by the Planning Commission the Borough Council shall submit each such amendment to the Planning Commission at least 30 days prior to the hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendations.
4. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
5. At least 30 days prior to the public hearing on the amendment by the Borough Council, the Borough shall submit the proposed amendment to the county planning agency for recommendations.
6. Within 30 days after enactment, a copy of the amendment to this Chapter shall be forwarded to the county planning agency.

(Ord. 264, 7/23/1962, §1301; as amended by Ord. 515, 6/10/1992)

**§1302. Procedure for Landowner Curative Amendments.**

1. A landowner who desires to challenge on substantive grounds the validity of this Chapter or the Zoning Map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the Borough Council with a written request that his challenge and proposed amendment be heard and decided as provided in §916.1 of the Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. §10916.1. The curative amendment and challenge shall be referred to the Planning Commission and the county planning agency as provided in §609 and notice of the hearing thereon shall be given as provided in §§610 and 916.1 of the MPC, 53 P.S. §§10609, 10610, and 10916.1.
2. The hearing shall be conducted in accordance with §908 of the MPC, 53 P.S. §10908, and all references therein to the Zoning Hearing Board shall, for purposes of this Section be references to the Borough Council. If the Borough does not accept a landowner's curative amendment brought in accordance with this subsection and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for this entire Chapter and Zoning Map, but only for those provisions which specifically relate to the landowner's curative amendment and challenge.
3. The Borough Council, if it determines that a validity challenge has merit, may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment which will cure the challenged defects. The Borough Council shall consider the curative amendments, plans and explanatory material submitted by the landowner and shall also consider:
  - A. The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;
  - B. If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this Chapter or Zoning Map.
  - C. The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features;
  - D. The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and

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

(Ord. 264, 7/23/1301; as amended by Ord. 515, 6/10/1992)

### **§1303. Procedure for Borough Curative Amendments.**

1. If the Borough determines that this Chapter, or any portion hereof, is substantially invalid, it shall take the following actions:
  - A. The Borough shall declare by formal action, this Chapter or portions hereof substantially invalid and propose to prepare a curative amendment to overcome such invalidity. Within 30 days such declaration and proposal the Borough Council shall:
    - (1) By resolution make specific findings setting forth the declared invalidity of this Chapter which may include:
      - (a) References to specific uses which are either not permitted or not permitted in sufficient quantity;
      - (b) Reference to a class of use or uses which requires revision; or,
      - (c) Reference to this entire Chapter which requires revisions.
    - (2) Begin to prepare and consider a curative amendment to this Chapter to correct the declared invalidity.
2. Within 180 days from the date of the declaration and proposal, the Borough shall enact a curative amendment to validate, or reaffirm the validity of, this Chapter pursuant to the provisions of §609 of the Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. §10609, in order to cure the declared invalidity of this Chapter.
3. Upon the initiation of the procedures as set forth in subsection (1), the Borough Council shall not be required to entertain or consider any landowner's curative amendment filed under §609.1 of the MPC, 53 P.S. §10609.1, nor shall the Zoning Hearing Board be required to give a report requested under §§909.1 or 916.1 of the MPC, 53 P.S. §§10909.1, 10916.1, subsequent to the declaration and proposal based upon the grounds identical or substantially similar to those specified by the resolution required by subsection (1)(A). Upon completion of the procedures set forth in subsections (1) and (2), no rights to a cure pursuant to the provisions of §§609.1 and 916.1 of the MPC, 53 P.S. §§10609.1, 10916.1, shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of this Chapter for which there has been a curative amendment pursuant to this Section.

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

(Ord. 264, 7/23/1962, §1301; as amended by Ord. 515, 6/10/1992)

**§1304. 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. 264, 7/23/1962; as added by Ord. 515, 6/10/1992)

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### **§1305. Causes of Action.**

In case any building, structure, land-scaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Chapter, the Borough Council or, with the approval of the Borough Council, an officer of the Borough, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Borough at least 30 days prior to the time the action is begun by serving a copy of the complaint on the Borough Council. No such action may be maintained until such notice has been given. (Ord. 264, 7/23/1962, §1302; as amended by Ord. 515, 6/10/1992)

### **§1306. Enforcement Remedies.**

1. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than \$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 district justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this Chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth-day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation.
2. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
3. Nothing contained in this Section shall be construed or interpreted to grant to any person or entity other than the Borough the right to commence any action for enforcement pursuant to this Section.
4. District justices shall have initial jurisdiction over proceedings brought under this Section.

(Ord. 264, 7/23/1962, §1303; as amended by Ord. 515, 6/10/1992)

**Part 14**

**Amendments to Zoning Map**

<b>Ord./Res.</b>	<b>Date</b>	<b>Subject</b>
302	7/15/1968	Rezoning as an R-2 Residence District the section known as Mohnton Lawn bordered by East Madison Street, Reading Avenue, Mohnton Boulevard, Evergreen Terrace, Grove Avenue, and Chestnut Avenue. Also the triangle between West Madison Street and north Church Street.
313	3/15/1971	Rezoning from R-A and R-1 to R-2 an area of 6.299 acres being the premises of Kaufman and Zellers.
331	3/14/1973	Rezoning from C-1 Commercial District to M-Manufacturing District the area between Wyomissing Avenue and Mohnton Boulevard from the point where the two roads intersect southwardly to McKinley Street extended and west-wardly to Centre Avenue extended.



**Part 15**

**Reading Municipal Airport Zoning Regulations**

**§1500. Short Title.**

This Part 15 shall be known and may be cited as the “Reading Municipal Airport Zoning Ordinance.” (Ord. 416, 6/10/1981, §1)

**§1501. Definitions.**

As used in this Part 15, unless the context otherwise requires:

**AIRPORT** — Reading Municipal Airport, located in Bern Township, Berks County, Pennsylvania.

**AIRPORT ELEVATION** — three hundred forty-four feet above mean sea level.

**APPROACH SURFACE** — a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in §203 of this Part 15. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.

**APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES** — these zones are set forth in §1502 of this Part 15.

**CONICAL SURFACE** — a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to one for a horizontal distance of 4,000 feet.

**HAZARD TO AIR NAVIGATION** — an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

**HEIGHT** — for the purpose of determining the height limits in all zones set forth in this Part 15 and shown on the Zoning map, the datum shall be mean sea level elevation unless otherwise specified.

**HORIZONTAL SURFACE** — a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

**LARGER THAN UTILITY RUNWAY** — a runway that is constructed for and intended to be used by propeller-driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft.

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**NONCONFORMING USE** — any structure, object of natural growth, or use of land which is inconsistent with the provisions of this Part 15 or an amendment thereto and which is in existence as of the effective date of this Part 15 or of such amendment hereto, as the case may be.

**MUNICIPALITY** — the Borough of Mohnton, Berks County, Pennsylvania.

**NONPRECISION INSTRUMENT RUNWAY** — a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area-type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

**OBSTRUCTION** — any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in §1503 of this Part 15.

**PERSON** — an individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

**PRECISION INSTRUMENT RUNWAY** — a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

**PRIMARY SURFACE** — a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is set forth in §1502 of this Part 15. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

**RUNWAY** — a defined area on an airport prepared for landing and takeoff of aircraft along its length.

**STRUCTURE** — an object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

**TRANSITIONAL SURFACES** — these surfaces extend outward at 90° angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90° angles to the extended runway centerline.

**TREE** — any object of natural growth.

UTILITY RUNWAY — a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

VISUAL RUNWAY — a runway intended solely for the operation of aircraft using visual-approach procedures.

ZONING HEARING BOARD — The Zoning Hearing Board created under §1508 hereof.

ZONING OFFICER — that person appointed by the Borough to issue Zoning Permits who shall be charged with the duty of administering and enforcing this Part 15.

(Ord. 416, 6/10/1981, §2)

### **§1502. Airport Zones.**

In order to carry out the provisions of this Part 2, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Reading Municipal Airport. Such zones are shown on the Airport Zoning Map consisting of one sheet, prepared by G. Edwin Pidcock Co., Consulting Engineers, Allentown, Pa., date March 1981, which is a part of this Part 15 and on record in the Borough Office. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. Utility Runway Visual Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
2. Runway Larger than Utility Visual Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
3. Runway Larger than Utility with a Visibility Minimum Greater than 3/4 Mile Nonprecision Instrument Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The widths of the inner edge of the approach zone and the primary surface, however, will be for the most precise approach existing or planned for either end of the runway. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal

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distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

4. Precision Instrument Runway Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
5. Transitional Zones. The transitional zones are the areas beneath the transitional surfaces.
6. Horizontal Zone. The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
7. Conical Zone. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

(Ord. 416, 6/10/1981, §3)

### **§1503. Airport Zone Height Limitations.**

Except as otherwise provided in this Part 15, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Part to a height in excess of the applicable height herein established for such zone. Such applicable height limitations are hereby established from each of the zones in question as follows:

1. Utility Runway Visual Approach Zone. Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. Runway Larger than Utility Visual Approach Zone. Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
3. Runway Larger than Utility with a Visibility Minimum Greater than 3/4 Mile Nonprecision Instrument Approach Zone. Slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

4. Precision Instrument Runway Approach Zone. Slopes 50 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
5. Transitional Zones. Slopes seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 344 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 ° angles to the extended runway centerline.
6. Horizontal Zone. Established at 150 feet above the airport elevation or at a height of 494 feet above mean sea level.
7. Conical Zone. Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
8. Excepted Height Limitations. Nothing in this Part 15 shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 35 feet above the surface of the land.

(Ord. 416, 6/10/1981, §4)

#### **§1504. Use Restriction.**

Notwithstanding any other provision of this Part 15, no use may be made of land or water within any zone established by this Part 15 in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport. (Ord. 416, 6/10/1981, §5)

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### **§1505. Nonconforming Uses.**

1. Regulations not Retroactive. The regulations prescribed in this Part 15 shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations at the effective date of this Part 15, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Part 15, and is diligently prosecuted.
2. Marking and Lighting. Notwithstanding the preceding provision of this §1505, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the airport to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the owner.

(Ord. 416, 6/10/1981, §6)

### **§1506. Permits.**

1. Future Uses. Except as specifically provided in Subsections (A), (B), and (C) of this §1506, no material change shall be made in the use of land; no structure shall be erected or otherwise established; and no tree shall be planted in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Part 15 shall be granted unless a variance has been approved in accordance with this §1406(4).
  - A. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
  - B. In areas lying within the limits of the approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.
  - C. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or

structure less than 75 feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Part 15 except as set forth in §1503(8).

2. Existing Uses. No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation, than it was on the effective date of this Part 2 or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
3. Nonconforming Uses Abandoned or Destroyed. Whenever the Zoning Officer determines that a nonconforming tree or structure has been abandoned or more than 80% torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.
4. Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Part 15, may apply to the Zoning Hearing Board for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in impractical difficulty, unnecessary hardship, and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Part 15. Additionally, no application for variance to the requirements of this Part 15 may be considered by the Zoning Hearing Board unless a copy of the application has been furnished to the Airport Manager for advice as to the aeronautical effects of the variance. If the Airport Manager does not respond to the application within 15 days after receipt, the Zoning Hearing Board may act on its own to grant or deny said application. Any variance granted may be made subject to any reasonable conditions that the Board may deem necessary to effectuate the purposes of this Part 15.
5. Obstruction Marking and Lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Part 15 and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary.

(Ord. 416, 6/10/1981, §7)

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### **§1507. Enforcement.**

1. It shall be the duty of the Zoning Officer to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Officer upon a form published for that purpose, applications required by this Part 15 to be submitted to the Zoning Officer shall be promptly considered and granted or denied. Application for action by the Zoning Hearing Board shall be forthwith transmitted by the Zoning Officer.
2. In addition to other available remedies, the Borough may institute in any court of competent jurisdiction an action to prevent, restrain, correct or abate any violation of this Part 15, or of any order or ruling made in connection with its administration or enforcement.

(Ord. 416, 6/10/1981, §8)

### **§1508. Zoning Hearing Board.**

1. There is hereby created a Zoning Hearing Board of the Borough which shall have and exercise the following powers:
  - A. To hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Officer in the enforcement of this Part 15.
  - B. To hear and decide special exceptions to the terms of this Part 15 upon which such Zoning Hearing Board under such regulations may be required to pass; and
  - C. To hear and decide applications for variances.
2. The Zoning Hearing Board shall adopt rules for its governance and in harmony with the provisions of this Part 15. Meetings of the Zoning Hearing Board shall be held at the call of the Chairperson. The Chairperson or, in the absence of the Chairperson, the Acting Chairperson may administer oaths and compel the attendance of witnesses. All hearings of the Zoning Hearing Board shall be public. The Zoning Hearing Board shall keep minutes of its proceedings showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the Office of the Zoning Hearing Board and shall be a public record.
3. The Zoning Hearing Board shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this Part 15.

4. The concurring vote of a majority of the members of the Zoning Hearing Board shall be sufficient to reverse any order, requirement, decision, or determination of the Zoning Officer, or decide in favor of the applicant on any matter upon which it is required to pass under this Part 15, or the effect variation to this Part 15.

(Ord. 416, 6/10/1981, §9)

**§1509. Appeals.**

1. Any person aggrieved, or any taxpayer affected, by any decision of the Zoning Officer, made in the administration of this Part 15, may appeal to the Zoning Hearing Board.
2. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Zoning Hearing Board, by filing with the Zoning officer and with the Board a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Zoning Hearing Board all the papers constituting the record from which the action appealed was taken.
3. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Officer certifies to the Zoning Hearing Board, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in the opinion of the Zoning Officer, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by the order of the Zoning Hearing Board or notice to the Zoning Officer and on due cause shown.
4. The Zoning Hearing Board shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by attorney. The Board shall schedule, advertise and conduct the hearing in the manner and procedure as outlined in this Zoning Chapter for the conducting of other similar hearings before the Board, which procedure is herein incorporated by reference to the extent that it does not conflict with the provisions of this Part 15.
5. The Zoning Hearing Board may, in conformity with the provisions of this Part 15, reverse, or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances.

(Ord. 416, 6/10/1981, §10)

**§1510. Judicial Review.**

Any person aggrieved, or any taxpayer affected, by any decision of the Zoning Hearing Board, may appeal within 30 days after the decision is filed in the Office of the Board, to

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the Court of Common Pleas of Berks County, according to the provisions of the Act of Assembly by virtue of which this Part 15 was adopted. (Ord. 416, 6/10/1981, §11)

### **§1511. Penalties.**

Each violation of this Part 15 or of any regulation, order, or ruling promulgated hereunder shall constitute a summary offense and be punishable by a fine of not more than \$500 or imprisonment for not more than 60 days or both; and each day a violation continues to exist shall constitute a separate offense. (Ord. 416, 6/10/1981, §12)

### **§1512. Conflicting Regulations.**

Where there exists a conflict between any of the regulations or limitations prescribed in this Part 15 and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail. (Ord. 416, 6/10/1981, §13)