

BOROUGH OF NORTH APOLLO

Armstrong County, Pennsylvania

ZONING ORDINANCE

Ordinance 244-1994, April 4, 1994

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<u>SUBJECT</u>	<u>CHAPTER</u>	<u>SECTION</u>
ZONING		
administration		
appointment and powers of the zoning officer	27	901
building permits	27	902
enactment of zoning ordinance amendments	27	905
enforcement and penalties	27	904
permission to occupy	27	903
procedure for borough curative amendments	27	906
procedure for landowner curative amendments	27	907
schedule of fees	27	908
conditional uses		
criteria for judgment of specific uses in the business zone districts	27	603
criteria for judgment of specific uses in the industrial zone districts	27	604
criteria for judgment of specific uses in the residential zone districts	27	602
review and general criteria	27	601
definition of terms		
general rules	27	201
specific definitions	27	202
general provisions		
community development objectives	27	103
conflict and severability	27	105
continuity	27	107
interpretation	27	104
municipal liability	27	106
purposes	27	102
short title	27	101
nonconforming uses		
application	27	701
nonconforming structures	27	703
nonconforming uses	27	702
record of nonconforming uses	27	704
prior ordinances	Appendix	J
regulations that apply within each zone district		
application of district regulations	27	401
business B-1 zone district (B-1)	27	404
business B-2 zone district	27	405
industrial I zone district (I)	27	406
residential R-1 zone district (R-1)	27	402
residential R-2 zone district (R-2)	27	403
supplementary regulations		
accessory uses	27	506
individual mobile homes on their		

SUBJECTCHAPTERSECTION

ZONING, cont'd.

lots	27	504
maximum building height	27	503
minimum lot size, frontage, access and occupancy	27	501
off-street parking	27	507
regulations in required yards	27	502
signs	27	508
townhouses (attached dwellings)	27	505
zoning district map		
establishment of districts	27	301
official zoning map	27	302
interpretation of district boundaries	27	303
zoning hearing board	27	801
conditions	27	809
hearings	27	802
jurisdiction	27	803
parties appellant before the board	27	805
special exceptions	27	808
stay of proceedings	27	807
time limitations	27	806
variances	27	804

CHAPTER 27

ZONING

Part 1

General Provisions

- \$101. Short Title
- \$102. Purposes
- \$103. Community Development Objectives
- \$104. Interpretation
- \$105. Conflict and Severability
- \$106. Municipal Liability
- \$107. Continuity

Part 2

Definition of Terms

- \$201. General Rules
- \$202. Specific Definitions

Part 3

Zoning District Map

- \$301. Establishment of Districts
- \$302. Official Zoning Map
- \$303. Interpretation of District Boundaries

Part 4

Regulations That Apply Within Each Zone District

- \$401. Application of District Regulations
- \$402. Residential R-1 Zone District (R-1)
- \$403. Residential R-2 Zone District (R-2)
- \$404. Business B-1 Zone District (B-1)
- \$405. Business B-2 Zone District
- \$406. Industrial I Zone District (I)

Part 5

Supplementary Regulations

- \$501. Minimum Lot Size, Frontage, Access and Occupancy
- \$502. Regulations in Required Yards
- \$503. Maximum Building Height
- \$504. Individual Mobilehomes on Their Own Lots
- \$505. Townhouses (Attached Dwellings)
- \$506. Accessory Uses

- \$507. Off-Street Parking
- \$508. Signs

Part 6
Conditional Uses

- \$601. Review and General Criteria
- \$602. Criteria for Judgment of Specific Uses in the Residential Zone Districts
- \$603. Criteria for Judgment of Specific Uses in the Business Zone Districts
- \$604. Criteria for Judgment of Specific Uses in the Industrial Zone Districts

Part 7
Nonconforming Uses

- \$701. Application
- \$702. Nonconforming Uses
- \$703. Nonconforming Structures
- \$704. Record of Nonconforming Uses

Part 8
Zoning Hearing Board

- \$801. Zoning Hearing Board
- \$802. Hearings
- \$803. Jurisdiction
- \$804. Variances
- \$805. Parties Appellant Before the Board
- \$806. Time Limitations
- \$807. Stay of Proceedings
- \$808. Special Exceptions
- \$809. Conditional Uses

Part 9
Administration

- \$901. Appointment and Powers of the Zoning Officer
- \$902. Building Permits
- \$903. Permission to Occupy
- \$904. Enforcement and Penalties
- \$905. Enactment of Zoning Ordinance Amendments
- \$906. Procedure for Borough Curative Amendments
- \$907. Procedure for Landowner Curative Amendments
- \$908. Schedule of Fees

Part 1

General Provisions

§101. Short Title. This ordinance shall be known, and may be cited as, the "North Apollo Borough Zoning Ordinance." (Ord. 244-1994, 4/4/1994)

§102. Purposes. This Chapter is deemed necessary by Borough Council to promote the public health, safety and general welfare; to conserve and stabilize property values; to facilitate the economic provision of streets, utilities and other public services; to prevent the overcrowding or incompatible use or development of land; and to preserve floodplains, steep hillsides and areas of poor subsurface conditions from intense development. (Ord. 244-1994, 4/4/1994)

§103. Community Development Objectives. The arrangement of land use areas, the intensity of residential development and the capacity and function of streets and public utilities were determined in a master plan study of the Borough that preceded the preparation of this Chapter. That plan is the basis for the description of the zoning districts of this Chapter and the regulations that apply in each district. (Ord. 244-1994, 4/4/1994)

§104. Interpretation. The provisions of this Chapter shall be held to be the minimum requirements for the promotion of the public health, safety and welfare. (Ord. 244-1994, 4/4/1994)

§105. Conflict and Severability.

1. Conflict. Where conflicts exist between this Chapter and other regulations of the Borough or of a higher level of government, or with legal restrictive covenants applied by the landowners to the development of their property, the ordinance, regulation or covenant establishing the higher standard shall prevail. All ordinances or parts thereof in conflict with this Chapter, inconsistent with its provisions or less restrictive, are hereby repealed to the extent necessary to give this Chapter full force and effect.

2. Severability. If any Section, paragraph, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a court of law, such decision shall not affect the validity and constitutionality of the remainder of the Chapter, which shall remain in full force and effect, and thus the various provisions of this Chapter are hereby declared to be severable.

(Ord. 244-1994, 4/4/1994)

§106. Municipal Liability. The grant of a zoning permit in any zone district shall not constitute a representation, guarantee or warranty of any kind by the Borough or by any official or employee of the practicality or safety of the use, building or structure covered by the permit, and shall create not liability upon the Borough, its officials or employees. (Ord. 244-1994, 4/4/1994)

§107. Continuity. The provisions of this Chapter, so far as they are common to those zoning regulations in force immediately prior to the

enactment of this Chapter, are intended as a continuation of such prior regulations and not as new enactments. Such parts of the prior regulations that are omitted from this Chapter shall be deemed as abrogated and only the new or changed provisions included in this Chapter shall be deemed to be the law from the effective date of this Chapter. The adoption of this Chapter does not make legitimate development activity in the Borough illegal under provisions of the prior regulations, nor does it annul any litigation currently being pursued or that may be pursued in the future against such illegal activity. (Ord. 244-1994, 4/4/1994)

Part 2

Definition of Terms

§201. General Rules. Words used in the present tense include the future tense; the particular controls the general; the singular includes the plural and the plural the singular; the words "person" or "developer" include a firm, association, partnership, trust, company, or corporation as well as an individual; the masculine includes the feminine; the word "shall" or "occupied" include the words "intended, arranged, maintained or designed to be used or occupied"; and, words used in this Chapter and not otherwise defined in this Chapter shall have the same meaning as in a standard dictionary. (Ord. 244-1944, 4/4/1994)

§202. Specific Definitions.

ACCESSORY USE - an activity to use that is incidental to, but generally found in connection with the principal use on the lot (see §506).

ACCESS LANE - the vehicular passage between a street and parking spaces which abut the lane on one (1) or both sides for part or all of the lane's length (see §507(2)).

AMENDMENT - any addition, deletion or revision of the Chapter, text or map officially adopted by the Borough Council after public hearings (see §§905, 906 and 907).

APARTMENT - a suite of rooms in a building containing at least one (1) other dwelling, each intended to be used as an independent housekeeping unit with separate cooking, food storage, bathing and toilet facilities and with access directly or by a common hallway and stairs to the outside.

APARTMENT BUILDING, GARDEN - a building containing at least three (3) apartments, each with access via common halls and stairways to the outside.

ATTACHED DWELLING - a dwelling attached by a common wall or walls to one (1) or more other similar dwellings, each independent of the others and each with direct access to the outside (also see "Townhouse").

AUTOMOTIVE SERVICE STATION - a retail business place for the sale of gasoline, oil, tires and auto accessories and minor repairs, but not including body work, frame straightening, painting or the removal and replacement of major vehicle components.

AUTOMOTIVE REPAIR GARAGE - a business place for repair of vehicles of all types, including body work, frame straightening, painting, repair and replacement of major vehicle components, but not including the storage or accumulation of discarded vehicles or parts thereof unless within an enclosed building, or the retail sale of gasoline, oils, tires or auto accessories.

BALCONY - a platform projecting from a building and attached only to the building.

BOARD - any body granted jurisdiction under a land use ordinance or under this Chapter to render final adjudications.

BOROUGH COUNCIL - the duly elected governing body of North Apollo Borough with certain powers relative to this Chapter.

BUILDING - a man-made structure attached to or into the ground enclosing or covering a volume of space, and intended to shelter or contain people, animals, businesses and activities associated with any of them.

BUILDING, ENCLOSED - a building whose walls extending from grade to roof are permanent.

BUILDING or SETBACK LINE - a line that closes on itself limiting the area in a building lot within which a building or structure can occur. Certain building projections and uses of the lot may extend over the line (see §502).

BUILDING LOT - a contiguous area of land in one (1) ownership upon which a building or structure may be erected in accordance with the requirements of this Chapter.

BUILDING PERMIT - a document attesting that a proposal for development has been reviewed and approved in accordance with the requirements of this Chapter and allowing the construction to commence.

CLUSTER RESIDENTIAL DEVELOPMENT - an arrangement of residential lots and streets in which the zoning regulations that would normally apply are superseded by controls that allow a more sensitive and more efficient layout of the site, including areas left permanently undeveloped for the protection and enjoyment of the plan residents.

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.

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

CONVALESCENT or NURSING HOME - a building housing persons recovering from serious illness or injury requiring temporary care but not on the level available in a hospital setting, the operators of such facility licensed by the Commonwealth to provide the services.

COVERAGE - the percentage of the area of a lot that may be covered by the principal building or buildings within the total lot area.

CURATIVE AMENDMENT - an amendment proposed by a property owner challenging the validity of zoning regulations as they apply to property in which he has an interest and requiring municipal action on his petition or a municipal curative amendment, in which the Borough Council declares a moratorium on specific parts of the zoning ordinance in order to cure alleged defects (see §§906 and 907).

DAY CARE CENTER - a facility for the care of dependent persons operated by a qualified individual or staff while parents or guardians are at work (see §602(5)).

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.

DENSITY - the measure of the number of dwelling units per acre of land area.

DETACHED DWELLING, SINGLE FAMILY - a single family dwelling unit surrounded by open space on its lot, sharing the lot with no other dwellings, and designed to be occupied by one (1) family only.

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.

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.

DEVELOPMENT - the erection, expansion or alteration of a building or structure, the altering of the land surface or subdividing of land in anticipation of its receiving a building or structure, or the offering of land for such purposes.

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.

DRAINAGE - a designed channel to direct storm runoff with least damage to development.

DRIVE THROUGH SERVICE - the sale of goods or services to customers who may complete the transaction without leaving their cars or leaving them for a very short time period while parked adjacent to the point of sale.

DRIVEWAY - the vehicular access into a lot, connecting the street abutting the lot to a car storage area or building on the lot, and intended only for the private use of the lot occupants and their guests.

DWELLING - a group of connected rooms in a building for the exclusive residential use of one (1) family, containing its own private cooking food storage, bathing and toilet facilities, and connected either directly or by a common hall or stairs to the outside.

DWELLING BUILDING - any building containing one (1) or more dwelling units.

DWELLING UNIT - one (1) of a group of similar dwellings in a building or group of buildings.

EARTH MOVEMENT - the rearrangement of the earth's surface by excavation and filling to accommodate development; also known as grading.

EASEMENT - a right-of-way across private property granted and guaranteed by the property owners for the passage of public utilities or storm water.

FACILITIES AND SERVICES, MUNICIPAL - the lands and buildings owned by North Apollo Borough for the public use and protection of the residents and property owners, but not including the underground and overhead distribution and collection systems providing water, gas, electric, telephone, and cable TV service or sanitary or storm sewage drainage.

FAMILY - an individual or two (2) or more persons related by blood, marriage, adoption or foster care assignment or a group of not more than five (5) persons who are not related, living together in a dwelling unit.

FENCE - a structure intended to contain activities within a lot or prevent trespassing, which may be located along a lot line or within a required yard area but subject to maximum height restrictions (see §502(5)).

FILL - earth material excavated from elsewhere and deposited to build up the ground surface in the process of grading.

FINISH GRADE - the final grade after topsoil has been applied to graded slopes, and the elevation at the base of a building from which height is measured.

FLOODPLAIN - a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface water from any source.

FLOOD PRONE AREA - the area occupied by a waterway and the abutting lands which are the floodplain.

FLOOD PROOFING - any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

FRONTAGE - the distance across the front of a lot between side lot lines, normally the width of the lot abutting the street to which the lot has access.

FRONT BUILDING LINE - a line extending across a lot between side lot lines and set back from the front lot line the minimum distance required for the front yard depth in the zone district containing the lot.

FRONT LOT LINE - the line describing the edge of the lot abutting the street to which the lot has access and is oriented for purposes of development.

FRONT YARD - the area of a lot between the front lot line and the front building line and extending to the side lot lines.

GARAGE, PRIVATE - an accessory building on a residential lot attached to or detached from the dwelling, or a room within the dwelling, intended for the storage and maintenance of vehicles and equipment owned and operated by the residents of the dwelling and for no other purpose.

HEARING OFFICER - a member of the Zoning Hearing Board appointed by the Board membership to hear and decide a matter brought before the Board.

HOME OCCUPATION - a service type small business conducted within a single family detached dwelling by the residents, involving no exterior manifestation of the business or expansion of the dwelling to accommodate it, and not creating nuisance or congestion conditions in the neighborhood where it is located.

HOMEOWNER'S ASSOCIATION - an organization formed to manage the common open space and common facilities within a development plan that are not to be publicly maintained; membership in, and financial support of such organization mandatory for all owners of property in the plan.

LAND DEVELOPMENT - any of the following activities:

A. The improvement of one (1) lot or two (2) or more contiguous lots, tracts or parcels of land for any purpose involving:

(1) A group of two (2) 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.

(2) The division or allocation of land or space, whether initially or cumulatively, between or among two (2) or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

B. A subdivision of land.

C. Development in accordance with provisions of the Municipalities Planning Code and the Subdivision and Land Development Ordinance of the County of Armstrong.

LAND USE - the activity or activities for which a lot or property and the buildings or structures on it are devoted.

LIGHT MECHANICAL ASSEMBLY - the fitting together of components manufactured elsewhere to create a product when no use of heavy forging, shaping or grinding equipment, or of molten materials is involved.

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

LOT AREA - the area of the total surface of a lot expressed in acres or square feet, based on deed description or registered surveyor's survey. One (1) acre equals forty-three thousand five hundred sixty (43,560) square feet.

LOT LINE - any of the lines describing the perimeter of a lot.

LOT OF RECORD - a lot or property duly recorded in the office of the Armstrong County Recorder of Deeds.

LOT WIDTH - the distance across a lot measured along the front building line between the side lot lines.

MASTER PLAN STUDY - a document based on an analysis of past trends and current conditions in a municipality, projecting growth and change in

population, economic conditions and land use, and recommending measures to improve streets, utilities and community facilities, and allocate land to cope with such growth and change.

MOBILEHOME - a transportable, single family dwelling intended for permanent occupancy, contained in one (1) unit or in two (2) or more units designed to be joined into one (1) integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

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.

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

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."

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

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

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

NOT FOR PROFIT COMMUNITY FACILITY - a facility owned and operated by a private corporation or an association for the benefit of its membership or for the public at large on a non-profit basis for recreational, leisure or cultural purposes.

OCCUPANCY PERMIT - a certificate issued by the Zoning Officer attesting to the fact that the proposed use or reuse of premises is in accordance with the requirements of this Chapter or with a previously issued building permit and may be legally occupied.

OFF-STREET PARKING LOT - area set aside on a lot for parking of at least five (5) vehicles entirely outside of a street right-of-way.

OFF-STREET PARKING SPACE - an area within a parking lot abutting an access lane and of such dimensions, as specified by this Chapter, to accommodate one (1) vehicle (see §507).

PATIO - a surfaced outdoor area level with the surrounding land surface or no more than three (3') feet above or below the surface at any point, and without a permanent covering.

PERMITTED USE, PRINCIPAL - a use allowed by right under the terms of this Chapter to occur on a lot because of the lot's location in a particular zoning district. Principal permitted uses are listed for each zone district and imply that all other activity on the lot is, or will be, secondary to the principal use. Such uses may be approved directly by the Zoning Officer without reference to other review bodies.

PERSONAL CARE HOME - a dwelling converted to a residence for the long-term care of elderly or disabled persons not requiring the services of a convalescent home, the operators of such facility licensed by the Commonwealth to provide the facility.

PERSONAL SERVICE - rendering for compensation of a person-to-person assistance by individuals trained or certified to provide such assistance.

PET, HOUSEHOLD - any variety of domesticated creature, such as birds, cats, dogs, and hamsters, normally kept within a dwelling or residential yard area, but not including exotic reptiles, insects, or snakes.

PLANNING COMMISSION - the body duly appointed by Borough Council to perform all the duties and exercise all the powers of Borough planning agencies by Article II of the Municipalities Planning Code, 53 P.S. §10201 et seq.

PORCH - an attachment to a building covered by a permanent roof but without side walls floor to ceiling, and considered part of the building for purposes of setback from lot lines.

POSTING - the placement of a notice upon a signboard or upon a building or structure on a property calling public attention to proposed changes in the zoning status of the property, or to a request for a variance, and indicating the date, time and place of the hearing at which the matter will be heard.

PRINCIPAL STRUCTURE - the building or structure containing the principal permitted use on the lot, such use possibly occurring in more than one (1) building or structure.

PROFESSIONAL ENGINEER - an individual duly registered to practice civil engineering in the Commonwealth of Pennsylvania.

PROPERTY - see "lot."

PROPERTY LINE - see "lot line."

PUBLIC GROUNDS - includes:

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

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

C. Publicly owned or operated scenic and historic sites.

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

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

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

PUBLIC or SEMI-PUBLIC INSTITUTION - a facility owned and operated by a publicly supported body for the public benefit, or by a non-profit cultural, educational, philanthropic, or fraternal organization for the benefit of its membership or for the public at large.

PUBLIC STREET - a right-of-way intended to be used for travel by the public, improved for such purpose and accepted by North Apollo Borough for perpetual maintenance.

PUBLIC UTILITY - a system providing distribution of water, gas, electric, telephone, or cable TV services, or the collection and disposal of waste water, such system operating as a municipal authority or under the rules and regulations of the Pennsylvania Public Utility Commission

QUICK STOP SALES - convenience retail sales of day-to-day domestic needs, often available during time periods when other outlets are not open, and providing customers fast service.

REAR YARD - the area of a lot between the rear lot line and rear building line and extending to the side lot lines. The rear yard line is the lot line connecting the two (2) side lot lines.

RECREATION FACILITIES, PRIVATE - children's play equipment, picnic facilities, swimming pool and/or paved court areas on a lot for the use of the residents of the lot or the members of the organization owning the lot, but not available to the public.

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.

REQUIRED PARKING - the minimum number of parking spaces required to be provided in connection with the particular use of a lot as specified by this Chapter.

RIGHT-OF-WAY - a strip of land dedicated to and improved for vehicular and/or pedestrian travel by the public.

SCHEDULE OF FEES - the list of charges adopted by resolution of Borough Council, and not a part of this Chapter, to cover the costs of administering the review, decision and/or appeal processes required by a development proposal, such costs to be borne by the developer, paid in advance, and subject to periodic revision by Council.

SCREEN - a planted or built buffer intended to protect residential properties from abutting commercial or other activity that might deteriorate the enjoyment or value of the residential property.

SETBACK - the minimum distance a building or structure must be removed from an adjacent lot line, as required by this Chapter in the various zoning districts. Distance between lot line and building shall be measured along a line at right angles to the line.

SETBACK LINE - an imaginary line within a lot describing the limits within which building construction can occur, or any part of such line, as established by the front, side and rear yard depths for each zone district.

SEWAGE ENFORCEMENT OFFICER - an individual certified by the Commonwealth of Pennsylvania and retained by the Borough to evaluate the ability of a lot proposed for development, but lacking public sewer connections, to absorb sewage effluent, and to decide on sewer connections, to absorb sewage effluent, and to decide on the appropriate type of disposal system, under the circumstances, to serve the lot.

SIDE YARD - the area of a lot between the side lot line and side building line, extending from the front yard to the rear yard, and comprising two (2) such areas on a lot. The side lot lines on each side of a lot connect the front and rear lot lines.

SINGLE FAMILY DWELLING - see "detached dwelling."

SITE - a lot or a part of a lot that is proposed for development or improvement as stipulated in a site plan.

SITE DEVELOPMENT - the improvement of a lot in accordance with an approved site plan, including construction of buildings and structures and the rearrangement of the land surface.

SITE PLAN - the proposed layout of a lot showing all elements of the site development as well as utility and drainage lines and existing buildings and structures to remain.

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.

STENOGRAPHIC RECORD - a transcription of testimony taken at a public hearing by a professional stenographer.

STORMWATER MANAGEMENT PLAN - a plan to govern the collection, retention and release of stormwater in a manner to minimize damage to downstream property.

STORMWATER RETENTION VESSEL - a device constructed to receive and hold stormwater for release at a controlled rate. Such devices may include

graded depressions in the ground, parking lots with concave surfaces, roof tops, or buried tanks or pipes.

STORY - the area in a building between a floor and the floor next above or below, or if no floor is above, the ceiling above.

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

STREET LINE - the edge of a street right-of-way where it abuts private property.

STRUCTURE - any man-made construction in, on, or over the ground and attached thereto. The term "structure" includes buildings.

SUBDIVISION - the division or redivision of a lot, tract or parcel of land by any means into two (2) 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 ten (10) acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

TOPSOIL - the material that is naturally on the surface of the ground prior to earth movement and is necessary to sustain ground cover. Finished grade is established upon the replacement of topsoil after grading.

TOWNHOUSE - a dwelling attached to one (1) or more other similar dwellings along a common wall or walls, when at least three (3) dwellings are attached, each is entirely independent of the others regarding utilities and facilities, and each has at least two (2) direct means of access to the outside, not involving interior halls or stairs.

TWO-FAMILY DWELLING - a dwelling building containing two (2) dwellings, each entirely separate from the other in terms of utilities and facilities and each with direct access to the outside at two (2) locations. Such dwellings may be side by side or one (1) above the other.

UNDISTURBED EARTH - ground surface that has not been changed by cutting or filling for at least two (2) years prior to development.

USE ALLOWED BY RIGHT - a use listed as a principal permitted use and which requires only review and approval by the Zoning Officer prior to the issuance of a building or occupancy permit (see also "permitted use, principal").

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

YARD - the front, side, or rear area of a lot between the lot line and the setback line, the depth of which is specified for each type of yard within each zoning district by this Chapter. Development within yard areas is restricted.

YARD DEPTH - the distance between the lot line and the adjacent parallel setback line on a lot, such distance varying for front, side and rear yards and from one (1) zoning district to another.

ZONING CLASSIFICATION - the controls imposed by this Chapter that define the uses of land and buildings and the intensity of such uses that may occur within a zoning district, such controls to be applied uniformly throughout the district.

ZONING DISTRICT - a contiguous area of land on all parts of which the same uniform opportunities for development apply.

ZONING DISTRICT BOUNDARY - the perimeter line completely enclosing a zoning district.

ZONING MAP, OFFICIAL - the official plan of zoning districts in North Apollo Borough, a part of this Chapter, showing precisely the boundaries and title of each district (see §302).

(Ord. 244-1944, 4/4/1994)

200

Part 3

Zoning District Map

§301. Establishment of Districts. North Apollo Borough is hereby divided into five (5) classes of zoning districts as shown on the Official Zoning Map. The regulations that apply in each zone district are contained in Part 4 below. The three classifications and their designations on the zoning map are:

- A. R-1 Residence District - "R-1"
- B. R-2 Residence District - "R-2"
- C. B-1 Business District - "B-1"
- D. B-2 Business District - "B-2"
- E. I-1 Industrial District - "I"

(Ord. 244-1994, 4/4/1994)

§302. Official Zoning Map.

1. The official copy of the zoning map shall be located in the Borough office and shall be kept current as zone district boundaries are amended. It shall be the final authority as to the current location of zone district boundaries.

2. No changes of any kind shall be made to the map except after amendments have been adopted by Council (see §905). Any unauthorized change by any person shall be considered a violation of this Chapter, subject to penalties under §904.

3. The official zoning map shall be identified by the signatures of the President and Secretary of Borough Council, together with the date of adoption under the following words: "This is to certify that this is the Official Zoning Map referred to in Part 3 of Ordinance No. _____, of 1990, of the Borough of North Apollo, Armstrong County, Pennsylvania."

4. Each amendment to the zoning district boundaries shall be noted on the zoning map by the ordinance number and date together with initials of the President of Council.

(Ord. 244-1994, 4/4/1994)

§303. Interpretation of District Boundaries.

1. Zoning district boundaries in most cases follow property lines or the centerlines of streets.

2. Boundaries indicated as parallel to a street or property line shall be construed as parallel thereto and at such a distance therefrom as indicated on the map.

3. When there is disagreement over the location of district boundaries, a decision on the correct location shall be rendered by the Zoning Officer with appeal from his decision made to the Zoning Hearing Board.

4. In the event that the Borough annexes additional land, such land

shall be placed initially in the R-1 zone district until Council, within ninety (90) days of annexation, determines the appropriate zone classification for the land, after receiving recommendations from the Planning Commission and holding a public hearing. (Ord. 244-1994, 4/4/1994)

Part 4

Regulations That Apply Within Each Zone District

§401. Application of District Regulations.

1. Uniformity. The regulations within each zone district shall apply uniformly to every proposed development therein whether new construction, expansion or renovation of a property.
2. Conformity. No building, structure or land area shall, after adoption of this Chapter, be erected, used or altered except to conform with the regulations of the zone district containing the property to be developed, unless:
 - A. Borough Council approves an application for a conditional use as provided for in these regulations; or,
 - B. The Zoning Hearing Board grants a variance, allowing specific modification of the regulations.
3. Yard Size and Use. No yard or lot area or off-street parking space used by one (1) building, structure or land use shall be credited to another building, structure or use, and no yard, or lot or off-street parking area shall be reduced in size or number so as to be less than the minimums prescribed for the zone district.
4. Uses Allowed by Right. Within each zoning district lands, buildings, and structures shall be used, and buildings and structures shall be erected, altered or enlarged only for any of the uses permitted by right in the zone district, or after Council approval for a conditional use. The principal permitted uses (allowed by right), accessory uses and conditional uses for each zone district are listed below in this Part. No use listed in one (1) zone district is allowed in a second district unless listed as a permitted, accessory or conditional use in that second district.

(Ord. 244-1944, 4/4/1994)

§402. Residential R-1 Zone District (R-1).

1. Principal Permitted Uses.
 - A. Single family detached dwelling.
 - B. Municipal facilities and services.
 - C. Public utility structures, rights-of-way and facilities but not including office buildings, garages or material stockpiles.
 - D. Accessory uses (see §506).
2. Conditional Uses.
 - A. Cluster residential development (see §602(1)).
 - B. Church, including church school and social hall all in the same complex (see §602(2)).
 - C. Public or semi-public not-for-profit community facility or service (see §602(3)).
 - D. Home occupation (see §602(4)).

- E. Day care center (see §602(5)).
- F. Convalescent or personal care home (see §602(6)).
- G. Transitional living facility (see §602(7)).
- H. Boarding or lodging house (see §602(8)).

3. Minimum Dimensional Requirements.

A. Lot Area.

(1) Single family detached dwelling, municipal facilities and services, public utility structures, home occupations. Seven thousand (7,000) square feet.

(2) Church, community facility or service, day care center, convalescent or personal care home, transitional living facility, boarding or rooming home. Ten thousand (10,000) square feet.

(3) Cluster residential development. Twenty thousand (20,000) square feet.

B. Lot Frontage. Fifty (50') feet.



C. Front Yard Depth. Twenty-five (25') feet.

D. Side Yard Depth. Seven (7') feet.

E. Side Yard Depth if Yard Abuts A Street. Fifteen (15') feet.

F. Rear Yard Depth, Principal Building. Thirty-five (35') feet.

G. Rear Yard Depth, Accessory Building. Seven (7') feet.

H. Maximum Lot Coverage. Thirty (30%) percent.

(Ord. 244-1944, 4/4/1994)

§403. Residential R-2 Zone District (R-2).

1. Principal Permitted Uses.

- A. Single family detached dwellings.
- B. Single family attached dwellings (townhouses).
- C. Two (2) family dwellings.
- D. Municipal facilities and services.
- E. Public utility structures, rights-of-way and facilities but not including office buildings, garages or material stockpiles.
- F. Accessory uses (see §506).

2. Conditional Uses.

- A. Garden apartment building (see §602(9)).
- B. Cluster residential development (see §602(1)).
- C. Church, including church school and social hall, all in the same complex (see §602(2)).
- D. Public or semi-public not-for-profit community facility or service (see §602(3)):

- E. Home occupation (see §602(4)).
- F. Day care center (see §602(5)).
- G. Convalescent or personal care home (see §602(6)).
- H. Transitional living facility (see §602(7)).
- I. Mobilehome park (see §603).

3. Minimum Dimensional Requirements.

A. Lot Area.

(1) Single family detached dwelling, municipal facilities and services, public utility structures, home occupations. Seven (7,000) thousand square feet.

(2) Two family dwelling, single garden apartment building, church, community facility or service, day care center, convalescent or personal care home, transitional living facility. Ten thousand (10,000) square feet.

(3) One (1) or more buildings containing single family attached dwellings, two (2) or more garden apartment buildings, or cluster residential development. Twenty thousand (20,000) square feet.

(4) Mobilehome park. Fifty thousand (50,000) square feet.

B. Lot Frontage. Fifty (50') feet.

C. Front Yard Depth. Twenty-five (25') feet.

D. Side Yard Depth. Seven (7') feet.

E. Side Yard Depth if Yard Abuts a Street. Fifteen (15') feet.

F. Rear Yard Depth, Principal Building. Thirty-five (35') feet.

G. Rear Yard Depth, Accessory Building. Seven (7') feet.

H. Maximum Lot Coverage. Thirty (30%) percent.

(Ord. 244-1944, 4/4/1994)

§404. Business B-1 Zone District (B-1).

1. Principal Permitted Uses.

- A. Retail sales store with all display and sales areas indoors.
- B. Barber or beauty shop.
- C. Bank or other financial institutional but not including drive-through service.
- D. Business, professional or government office.
- E. Restaurant or tavern, but not including window service.
- F. Funeral home.
- G. Public or semi-public not-for-profit community facility or service.
- H. Parking lot.

I. Church, including church school and social hall.

J. Accessory uses (see §506).

2. Conditional Uses.

A. Bank or other financial institution or restaurant with drive-through service (see §604(1)).

B. Quick stop sales, including gasoline sales (see §604(2)).

C. Indoor theatre, bowling alley, billiards or pool hall (see §604(3)).

D. Tanning, massage, physical fitness or self-defense instruction studio (see §604(4)).

E. Other commercial use similar to and compatible with those listed as permitted (see §604(5)).

3. Minimum Dimensional Requirements.

A. Lot Area. Five thousand (5,000) square feet.

B. Lot Frontage. Fifty (50') feet.

C. Front Yard Depth.

(1) No parking in front yard area. Ten (10') feet.

(2) Parking in front yard area. Forty-five (45') feet.

D. Side Yard Depth.

(1) Lot abuts a commercial or industrially zoned lot. Five (5') feet.

(2) Lot abuts a residentially zoned lot. Fifteen (15') feet.

E. Rear Yard Depth.

(1) Lot abuts a commercially or industrially zoned lot. Ten (10') feet.

(2) Lot abuts a residentially zoned lot. Fifteen (15') feet.

(3) Parking occurs in rear yard. Forty-five (45') feet.

F. Maximum Lot Coverage. Thirty-five (35%) percent.

(Ord. 244-1944, 4/4/1994)

§405. Business B-2 Zone District.

1. Principal Permitted Uses.

A. Retail sales store.

B. Personal services outlet.

C. Bank or other financial institution but not including drive-through service.

D. Business, professional or government office.

E. Restaurant or tavern but not including window service.

- F. Public or semi-public not-for-profit community facility or service.
- G. Public utility structures, rights-of-way and facilities.
- H. Parking lot.
- I. Automobile service station.
- J. Quick stop sales, including gasoline sales.
- K. Automobile sales and service.
- L. Indoor theatre, bowling alley, billiards or pool hall.

2. Conditional Uses.

- A. Auto repair garage (see §60³(6)).
- B. Bank or other financial institution or restaurant with drive-through service (see §604(1)).
- C. Warehouse or cold storage (see §604(7)).
- D. Transportation terminal (see §604(8)).
- E. Lumber and builder's supply outlet (see §604(9)).
- F. Contractors' storage yard and garage (see §605).
- G. Beverage distributorship (see §605(1)).
- H. Light mechanical assembly operation (see §605(2)).
- I. Business uses similar to and compatible with those uses that are listed as permitted in the B-2 zone district (see §604(5)).

3. Minimum Dimensional Requirements.

- A. Lot Area. Ten thousand (10,000) square feet.
- B. Lot Frontage. Seventy (70') feet.
- C. Front Yard Depth.
 - (1) No parking in front yard area. Ten (10') feet.
 - (2) Parking in front yard area. Forty-five (45') feet.
- D. Side Yard Depth.
 - (1) Lot abuts a commercially or industrially zoned lot. Five (5') feet.
 - (2) Lot abuts a residentially zoned lot. Fifteen (15') feet.
- E. Rear Yard Depth.
 - (1) Lot abuts a commercially or industrially zoned lot. Ten (10') feet.
 - (2) Lot abuts a residentially zoned lot. fifteen (15') feet.
 - (3) Parking occurs in rear yard. Forty-five (45') feet.
- F. Maximum Lot Coverage. Thirty-five (35%) percent.

§406. Industrial I Zone District (I).1. Principal Permitted Uses.

A. Automobile, truck, motorcycle, construction equipment recreational vehicle sales, service, painting, repair or rebuilding.

B. Commercial bakery.

C. Bottling works.

D. Building materials sales.

E. Cabinet or furniture manufacturing.

F. Cleaning and dyeing plant.

G. Contractors' equipment and materials storage, assembly and service yard.

H. Laboratory for research and development, dental or medical products, testing or film processing.

I. Lumber, millwork or planing mill.

J. Machine shop with punch press or drop hammer capacity limited to twenty (20) tons.

K. Machinery sales, repair and display.

L. Mechanical, electronic or electrical appliance or precision instrument manufacture.

M. Manufacture, fabrication, compounding or treatment of articles for retail or wholesale sale from components produced elsewhere.

N. Manufacture of plastic molds and products.

O. Printing, lithographing and binding.

P. Public utility structures and facilities.

Q. Sheet metal fabrication with punch press or drop hammer limited capacity limited to twenty (20) tons.

R. Stone or monument works.

S. Tire retreading or recapping.

T. Truck terminal.

U. Warehouse or cold storage building.

V. Wholesale sales and distribution of manufactured products.

2. Conditional Uses.

A. Manufacturing or light industrial use similar to and compatible with those uses that are listed as permitted in the "I" zone district (see §606(1)).

B. Auto wrecking yard (see §606(2)).

3. Minimum Dimensional Requirements.

A. Lot Area. Fifteen thousand (15,000) square feet.

B. Lot Frontage. Eighty (80') feet.

C. Front Yard Depth.

- (1) No parking in front yard area. Ten (10') feet.
- (2) Parking in front yard area. Forty-five (45') feet.

D. Side Yard Depth.

- (1) Lot abuts a commercially or industrially zoned lot. Ten (10') feet.
- (2) Lot abuts a residentially zoned lot. Thirty (30') feet.

E. Rear Yard Depth.

- (1) Lot abuts a commercially or industrially zoned lot. Ten (10') feet.
- (2) Lot abuts a residentially zoned lot. Thirty (30') feet.
- (3) Parking occurs in rear yard. Forty-five (45') feet.

F. Maximum Lot Coverage. Forty (40%) percent.

(Ord. 244-1944, 4/4/1994)

Part 5

Supplementary Regulations

§501. Minimum Lot Size, Frontage, Access and Occupancy.

1. Lots of Record Lacking Minimum Area or Frontage. A lot legally recorded before adoption of this Chapter, containing less lot area and/or lot frontage on a public street than required, may be developed for any use permitted in the zone district where the lot is located without application for a variance provided:

A. No reduction of front, side or rear yards is required to accommodate the proposed development.

B. The lot does not abut along a common side lot line property in the same ownership.

C. If public sewer and water are not available, the Borough Sewage Enforcement Officer certifies the lot as being acceptable for on-lot sewage disposal and specifies the location and type of sewage disposal method that will be required.

2. If two (2) or more vacant lots in the same ownership exist side by side and one (1) or more contain less area or frontage than the minimum required, the lots shall be combined or resubdivided to create lots meeting at least the minimum area and/or frontage requirements.

3. Number of Principal Permitted Uses on a Lot. Only one (1) principal permitted use shall be allowed on an undivided property, and only one (1) dwelling building shall be permitted on a lot except in the case of a mobilehome park, a townhouse or apartment development, or a second use on a lot situated so that if the property is later subdivided both uses will occupy lots meeting all area, setback and frontage requirements that apply in the zone district and each will have separate access to a public street and separate utility connections. Any subdivision of property shall be subject to the applicable provisions and requirements of the Subdivision and Land Development Ordinance of the County of Armstrong.

4. Any lot proposed for development with a structure requiring a water supply shall be either connected to the public sewage disposal system or to a disposal system on the lot approved by the Borough Sewage Enforcement Officer.

5. Where a lot is created at the rear of a property that fronts on a public street, such lot shall have access to the public street by means at a driveway at least twenty (20') feet in width. Such driveway shall be a part of the lot but shall not be considered in computing minimum lot area. The lot shall not be further subdivided and buildings erected on the lot shall be set back from property lines, with the front yard considered the area of the lot closest to the public street. Any subdivision of property shall be subject to the applicable provisions and requirements of the Subdivision and Land Development Ordinance of the County of Armstrong.

(Ord. 244-1994, 4/4/1994)

§502. Regulations in Required Yards.

1. When a vacant lot exists between developed lots, a structure may be erected on the vacant lot so that it is set back from the street not less than the average setback of structures on the developed lots on either side, or the minimum front yard setback distance, whichever is less. If a vacant lot exists next to a developed lot on one (1) side, a structure may be erected on the vacant lot so that it is set back from the street not less than the average of the setback of the structure on the developed lot and the minimum front yard setback distance, or set back the minimum front yard setback distance, whichever is less.

2. Permitted Projections into Yards. Roof overhangs, chimneys, open balconies, bay windows, fire escapes, and covered porches may extend up to four (4') feet into a required front side or rear yard, but not closer than three (3') feet to a property line.

3. Uses Permitted in Required Yard Areas. Driveways, patios and parking areas may be extended to within one (1') foot of any property line, and the near and far corners to any property line but paved areas may not drain on to neighboring properties or adjacent streets. Neighbors may agree in writing to extend paved areas to their mutual property line.

4. Buildings to be Set at an Angle to Lot Lines. If buildings are to be set at an angle to lot lines, the average of the distances between the lot line and the near and far corners of the plane of the wall, taken at right angles to the lot line, shall be not less than the minimum required yard depth and in no case less than five (5') feet at any point.

5. Hedges and Fences. Within the area of any lot between the street and the front yard setback line, no hedge or fence shall exceed four (4') feet in height. In all other areas of any lot no fence or hedge shall exceed six (6') feet in height. An open-work metal fence not exceeding ten (10') feet in height may be erected on a commercial or industrial property for security purposes.

6. Hedges and Fences as Obstructions. Fences or hedges along property lines shall not exceed four (4') feet in height. At street corners fences and hedges shall be held back to assure adequate vision for drivers approaching the intersection on each street. The Zoning Officer may require fences and/or hedges encroaching on a clear site triangle whose sides along the intersecting streets are at least twenty-five (25') feet long, to be removed.

(Ord. 244-1994, 4/4/1994)

§503. Maximum Building Height.

1. Maximum Height. No building containing a principal permitted or conditional use shall exceed three (3) stories or thirty-five (35') feet in height, whichever is less, and accessory buildings shall not exceed fifteen (15') feet in height.

2. Measurement of Height. Height shall be measured as the distance between ground level and the top of the wall or the top of the roof, using the wall with the lowest ground level. On a sloped-roof buildings the top of the wall shall be considered as half-way between the roof's eave line and ridge line.

3. Exceptions. Chimneys, church steeples, flagpoles, water tanks, mechanical equipment mounted on a roof and communications equipment erected to meet the standards of the maximum height regulations.

(Ord. 244-1994, 4/4/1994)

§504. Individual Mobilehomes on Their Own Lots.

1. Such mobilehomes shall meet all requirements of this Chapter for single family homes, including the securing of a building permit.

2. They shall be supported directly on a peripheral masonry foundation carried at least three (3') feet below grade. The area below the floor shall be ventilated but completely enclosed by a masonry wall.

3. Mobilehomes shall be placed on their foundations not later than thirty (30) days after arrival on the lot.

4. No mobilehome shall be occupied until the Zoning Officer verifies that connection has been made to approved sewer and water services.

5. Mobilehomes shall be securely tied down to their foundations by exterior over-the-top or built-in steel straps at each corner and at one (1) intermediate point on each side.

6. No mobilehome lacking toilet and washing facilities or cooking and food storage facilities shall be permitted for occupancy.

7. No mobilehome shall be removed from the Borough until the owner has secured certification that all Borough, school district and county taxes past and current have been paid in full.

8. Any mobilehome brought into the Borough on or after the effective date of this Chapter shall comply with the National Manufactured Housing Construction and Safety Standards Act, as amended.

(Ord. 244-1994, 4/4/1994)

§505. Townhouses (Attached Dwellings).

1. Any lot intended for townhouses shall contain at least twenty thousand (20,000) square feet and two thousand five hundred (2,500) square feet for each dwelling.

2. Each dwelling shall be separated from its neighbor by a masonry wall extending from the foundation to the roof. Parallel walls shall be not less than sixteen (16') feet apart between centerlines and in any attached group the average distance shall be not less than eighteen (18') feet between centerlines including end walls.

3. Each dwelling shall occupy not more than forty (40%) percent of its lot.

4. Each dwelling shall have direct access to the outside at two (2) entrances, located as remotely as possible from one another.

5. No lot for sale or lease containing a townhouse shall be less than sixteen hundred (1,600) square feet in area.

6. No more than eight (8) dwelling units shall be in any attached group.

7. Where several townhouse groups occupy the same or adjacent lots, such buildings shall be separated by at least forty (40') feet when the long walls of adjacent buildings face each other and are parallel or an average of forty (40') feet if they are not parallel, by at least thirty (30') feet when a long wall faces an end wall, and by at least fifteen (15') feet when end walls face each other, regardless of the location of property lines.

(Ord. 244-1994, 4/4/1994)

§506. Accessory Uses.

1. Accessory uses shall be considered the following:

A. In the Residential R-1 and R-2 Zone Districts:

(1) Private garages and parking areas.

(2) Private recreation facilities for the use of residents of the property and their guests.

(3) Buildings for property maintenance equipment, shelter for household pets owned by the property residents and non-commercial greenhouses.

(4) Signs, as regulated by §508.

B. In the Business B-1 and B-2 Zone Districts:

(1) Parking lots and delivery areas in accordance with §507.

(2) Trash storage building.

(3) Apartments on the second and/or third floor of a building, the first floor of which is devoted to a principal permitted or conditionally approved use, provided the total number of apartments does not exceed the property area in square feet divided by two thousand five hundred (2,500).

(4) Signs, as regulated by §508.

C. In the Industrial I Zone District:

(1) Parking lots and delivery areas in accordance with §507.

(2) Office facilities serving the principal permitted use on the premises.

(3) Utility buildings.

(4) Outdoor storage of finished products but not including waste material of any kind.

(5) Signs as regulated by §508.

2. Any accessory use may only be constructed or occupied concurrent with or later than the principal use it serves.

3. An accessory building shall be located only in a rear or side yard of a lot and not forward of the front wall of the principal use building.

4. No dwelling unit shall be located in an accessory building.

5. No accessory building shall exceed fifteen (15') feet in height and one (1) story.

6. Swimming pools shall be considered an accessory use and may only be located in a side or rear yard area. Each shall be surrounded by a chain-link fence at least four (4') feet in height, access through which is controlled by a gate capable of being locked. Pools and any decks or supporting equipment shall be set back at least seven (7') feet from side or rear property lines. For purposes of this Chapter a swimming pool shall be considered any vessel with a depth greater than two (2') feet at any point and a diameter or diagonal measurement greater than eight (8') feet.

7. Boat trailers, camper tops and similar self-propelled or towed recreational vehicles may be stored on any lot either within a garage or in the rear yard area. No such vehicle shall be occupied at any time in the Borough for residential purposes for a period exceeding two (2) weeks.

(Ord. 244-1994, 4/4/1994)

§507. Off-Street Parking.

1. Any development constructed or expanded after the effective date of this Chapter shall provide off-street parking in accordance with this Section. Where several uses share the same lot, the parking requirements of each shall be added together to determine the total parking to be provided.

2. Parking Lot Dimensions. Each parking space in a lot shall contain at least one hundred eighty (180) square feet and be at least nine (9') feet in width, exclusive of access lanes. Access lanes shall be at least twenty-two (22') feet in width. The near edge of a parking lot shall be no farther away from the entrance of the use it serves than two hundred (200) feet and may be on a second property in the same ownership as the use served, or leased for the life of the use. For a single family detached or two-family dwelling, the garage and driveway on the property may be used to meet the off-street parking requirements.

3. Parking Lot Surfaces.

A. Where parking is provided for eight (8) or fewer vehicles on a lot, the surfacing may be not less than four and one-half (4½") inches of well-choked and compacted crushed limestone or slag base course.

B. Where parking is provided for more than eight (8) vehicles on a lot the base course described in subsection (A), above, shall be surfaced with a one (1) or two (2) layer bituminous course not less than two (2") inches in depth provided and placed in accordance with PennDOT specifications, or equivalent concrete surfacing.

4. Slopes and Drainage.

A. Parking lots shall be sloped not less than one half (½%) percent nor more than six (6%) percent, to a storm drain if the lot is paved.

B. When the slope extends downhill from the edge of a parking lot, the edge shall be protected by a curb or stop bars.

C. Storm water on a paved lot shall be collected in the lot and directed to a storm inlet or a recognized drainageway or stream.

5. Screening and Setback of Parking.

A. Parking lot paved edges shall be set back from property lines at least two (2') feet.

B. Where a parking lot designed for more than eight (8) vehicles abuts other properties developed with housing, the parking lot shall be screened along the common property line by a hedge maintained at a height of not less than four (4') feet, or a fence or wall of the same height.

C. Council may approve a natural change of grade along property lines or existing natural vegetation as a screen in lieu of a hedge, fence, or wall, upon application of the developer.

6. Schedule of Parking Requirements.

A. Single family detached dwelling or two (2) family dwelling. Two (2) spaces per dwelling unit.

B. Townhouse, garden apartment, or apartment over a store. One and a half (1½) spaces per dwelling unit.

C. Retail business, personal service business, home occupation, medical or dental clinic, or business or professional office: one (1) space for each two hundred fifty (250) square feet of floor area devoted to the business.

D. Non-profit club or other assembly space without permanent seating: one (1) space for each one hundred (100) square feet of floor space in the main hall or meeting room.

E. Church. One (1) space for each four (4) persons who can be seated simultaneously in the sanctuary.

F. Restaurant or Tavern. One (1) space for each three (3) persons who can be seated simultaneously at tables and at the bar.

G. Gasoline Service Station. Two (2) parking spaces outside the circulation area surrounding the pump islands and garage entrance.

H. Funeral Home. Six (6) spaces for each reposing room.

I. Boarding or Lodging Home. One (1) space for each boarder or lodger.

J. Foster Care Home or Day Care Center. Three (3) spaces.

K. Nursing or Convalescent Home. One (1) space for each two (2) beds.

L. Manufacturing Operations. One (1) space for each seven hundred fifty (750) square feet of floor area, or one (1) space for each (2) employees on the largest shift, whichever results in the greater number of spaces.

(Ord. 244-1994, 4/4/1994)

§508. Signs.

1. Definitions of terms peculiar to this section:

BILLBOARD - a sign advertising goods or services not produced or available on the premises containing the sign, excepting political, public or charitable agency signs.

FREESTANDING SIGN - a free-standing sign supported entirely by its own structure set in or on the ground and not attached to a building or other structure.

MARQUEE, AWNING or CANOPY - a marquee is a permanent shelter over a building entrance supported by the building and extending laterally from the building's face; an awning is a seasonal covering over an entrance that may be retracted mechanically and removed; a canopy is a freestanding seasonal structure covering a building entrance.

PROJECTING SIGN - a sign attached to a building wall along one (1) edge of the sign or attached to the wall by a bracket perpendicular to the wall surface.

SIGN AREA - all the area of a panel containing the sign message or all the area enclosed by connecting the extremities of the sign's interrelated parts. Where a sign has several faces, the total of all faces shall constitute the sign's area.

SIGN - a structure or device that is self-supporting and is attached to a building or any part of a building or to another structure, or painted on a building or structure, projecting a message by words, symbols and/or pictures designed to be viewed by the public from any public street or space open to the public, but not including the support of the sign.

WALL SIGN - a sign applied flat to or painted on a building wall and extending no more than one (1) foot in depth from the wall face.

2. General Limitations.

A. Except for time and temperature indicators, animated signs whether revolving or containing any moving parts or activated by wind movement, shall be prohibited. No signs illuminated by a flashing or pulsating source, no strings of bare bulbs and no sign lighted so as to create glare conditions on adjacent or nearby properties or streets, or to confuse motorists shall be permitted.

B. No sign shall be placed upon the roof of a building or to project above the top or beyond the ends of a building wall.

C. Free-standing signs shall be placed only in yards abutting a street and shall not project into a public right-of-way.

D. Exemptions.

(1) Any sign erected by the Borough Council or any State or Federal agency.

(2) Memorial tablets erected by public or non-profit organizations.

(3) Directional or informational signs on a property provided they are strictly functional, contain no advertising, and are approved by the Zoning Officer.

(4) Holiday decorations.

E. When a business moves or closes, signs advertising it shall be removed within thirty (30) days of termination.

3. Permits.

A. A permit issued by the Zoning Officer shall be required before any sign may be erected except for those listed in subsection (E) below.

B. Sign permit applications shall contain the following information provided by the applicant:

(1) Name, address, and phone number of the applicant, the contractor to erect the sign and the owner of the property, as well as the address of the property if different from the owner's.

(2) Statement of permission granted by the owner of the property for erection of the sign if owner and applicant are not the same.

(3) Location of the sign on the property relative to buildings and property lines, and height of sign from ground level to top of sign, with dimensions noted.

(4) A copy of the drawing from which the contractor will create and erect the sign, including an elevation view and method of attaching the sign to the ground or to a building.

C. The cost of sign permits shall be established by resolution of the Council. A permit shall be required for the placement, enlargement or moving of a sign, but not for repair of an existing sign.

D. Garage, yard, or porch sale signs shall be placed only on the property where the sale is occurring. Such signs shall not exceed four (4) square feet in area, shall not be in place more than three (3) days while the sale is in progress and shall not be approved more than four (4) times in any calendar year on the same property. Sales shall only be of household items and not of goods purchased for the purpose of resale on the premises.

E. The following types of signs shall not require permits for erection:

(1) Real estate sales sign, to be removed upon sale of the premises on which the sign is posted.

(2) Sign denoting designers and/or contractors when placed on the property where the firm is doing work, and to be removed when the work is completed.

(3) Home occupations or other personal name plate or sign.

F. The following types of signs shall require permits but no fees:

(1) Sign or bulletin board put up by public, charitable or religious institutions when located on the same property as the institution. Temporary signs advertising special events of such

institutions may be approved by Council in other locations for a period not exceeding thirty (30) days.

4. Signs Permitted in Residential Districts.

A. Property identification sign limited to name and address of occupants, and/or name and nature of home occupation conducted in the dwelling, such sign not more than two (2) square feet in area each face.

B. Temporary sign indicating property for sale, rental or lease identifying the broker's or owner's name, address and phone number and nature of proposed transaction, such sign not greater than twelve (12) square feet in area each face.

C. Sign identifying a public or semi-public institution's activities carried on by the institution, such sign not greater than twenty-four (24) square feet in area each face.

D. Temporary sign identifying designers or contractors employed on the property, such sign not exceeding eight (8) square feet each face, limited to one (1) sign per designer or contractor and to be removed upon completion of the work.

E. Memorial tablet erected by a public or non-profit organization; traffic or other governmental signs authorized and/or erected by a public body.

F. Signs may be applied flat to the principal structure on the property, attached to a private lamp-post or fence or to a pole in the ground. Only one (1) sign may be permitted on a property, except that if the property abuts two (2) streets, one (1) sign on each street may be approved.

G. No sign shall extend to more than twelve (12') feet in height measured from the topmost part of the sign to the ground level below.

H. No sign shall be lighted except signs identifying public or semi-public institutions, provided such lighting is from an indirect, hidden source.

5. Signs Permitted in the Commercial and Industrial Districts.

A. Permitted Types of Signs.

(1) Any sign permitted in the residential zone districts.

(2) Sign identifying a business or industry on the same property as the business or industry.

(3) Billboard in the industrial district only, set back at least twenty-five (25') feet from any street or property line and not exceeding one hundred (100) square feet of area on any face.

(4) Signs may be free-standing, projecting or wall mounted. In addition, signs may be attached to or painted on the edges of a marquee, retractable awning or canopy, provided such sign does not exceed three (3') feet in height.

B. Size of Signs.

(1) Free-standing signs shall not exceed forty-eight (48) square feet in area on any face and not more than a total area on all faces of ninety-six (96) square feet, limited to one (1) on any property. Such sign shall not protrude over a sidewalk or a public right-of-way.



(2) Wall signs shall not exceed in area ten (10%) percent of the wall surface to which they are attached, including the area of windows and doors. However, regardless of wall area, a wall sign of at least twenty (20) square feet shall be permitted and no wall sign shall exceed one hundred (100) square feet in area.

(3) Projecting signs shall not exceed in area fifteen (15) square feet on either face and shall not extend more than three (3') feet from the face of the wall to which attached. Projecting signs shall not protrude over a sidewalk or a public right-of-way.

(4) No part of any sign shall extend to a height greater than thirty-five (35) feet above the ground below.

(5) The total area of all signs on any property shall not exceed one hundred (100) square feet on all faces.

(6) Signs may be lighted provided the light source is enclosed inside the sign, or is hidden from view of anyone outside the boundary of the property on which the sign is located.

(Ord. 244-1994, 4/4/1994)

Part 6
Conditional Uses

§601. Review and General Criteria.

1. Conditional uses are listed in §§402(2) (R-1 District), 403(2) (R-2 District), 404(2) (B-1 District), 405(2) (B-2 District), and 406(2) (I District) of this Chapter.
2. A request for consideration of a conditional use shall be presented to the Borough Secretary who shall place it on the agenda of the next regularly scheduled meeting of the Planning Commission.
3. The Commission shall review the plan at its next meeting and shall recommend to the Borough Council that the proposal be approved as presented, approved with specific conditions attached, or denied. The Planning Commission's recommendation shall be made not later than the second regular meeting after first reviewing the proposal.
4. The Commission shall immediately send its recommendation to Council. Council shall make its decision not later than the second regular meeting after reviewing the recommendation.
5. Prior to making its decision, Council shall hold a public hearing on the application in accordance with the requirements and procedures set forth in §802 hereof. The Planning Commission may, but is not required to, hold a public hearing prior to making its recommendation to Council.
6. If granting approval, Council shall immediately authorize the Zoning Officer to issue a zoning permit for the proposal. Failure of the developer to accept conditions attached to the approval in writing addressed to the Council within fifteen (15) days following communication of the approval with conditions to the applicant shall constitute disapproval. Any conditions attached to the approval shall be noted on the zoning permit.
7. A request for a conditional use shall be accompanied by a written statement that demonstrates:
 - A. The use will not endanger the public health and safety if located where proposed and will not deteriorate the environment nor generate nuisance conditions.
 - B. The use can be accommodate on the site with none, or only minimum, variances required.
 - C. The use is compatible with or will support the uses in the neighborhood of the site.
 - D. The use does not require substantial earthmoving, revision of drainage patterns, or create excessive traffic congestion or substantial increase in storm water flow.
 - E. Off-street parking is provided as required by §507 of this Chapter and areas not covered by buildings or paved are landscaped and maintained.
 - F. Access to parking lots are located as remote as possible from

nearby street intersections and adequate sight distances are available at access points for motorists entering and leaving the property proposed for the use.

8. The developer shall submit, in addition to the statement, a site plan of his proposal showing existing and proposed buildings, with use of each building noted, uses of all adjacent properties and of those directly across an intervening street, points of access into the property, internal drives and parking areas showing each parking space, and topographical features, including proposed grading, if any (with degree of slope shown).

(Ord. 244-1944, 4/4/1994)

§602. Criteria for Judgment of Specific Uses in the Residential Zone Districts.

1. Cluster Residential Development.

A. A cluster residential development is a conditional use in the R-1 and R-2 zone districts.

B. Such development shall minimize earth movement, disturbance of steep slopes, natural drainage patterns and woods cover, shall minimize the length of access streets and utility lines, shall assure permanent open space within the development, and may include a combination of types of dwelling buildings. Sites that are difficult to develop because of topographical, site configuration, or other problems will be preferred for cluster development.

C. At least one third the total site area in any such development shall be set aside as "common open space" (see subsection (K) below) which may be developed for the recreational use of the residents of the plan but shall not be sold or used for any other purpose.

D. Within the R-1 zone district only one (1) family detached or two (2) family dwellings will be permitted.

E. The overall density within a cluster development, excluding public streets created in the plan, shall not exceed:

(1) Single Family Detached or Two (2) Family Dwellings. Seven thousand (7,000) square feet of site area per dwelling unit in the R-1 district and six thousand (6,000) square feet of site area in the R-2 district.

(2) Attached Dwellings (Townhouses). Four thousand (4,000) square feet of site area per dwelling unit (R-2 only).

(3) Garden Apartments. Two thousand (2,000) square feet of site area per dwelling unit (R-2) only.

(4) Mixed Group of Residential Buildings. Three thousand (3,000) square feet of site area per dwelling unit.

F. Single family detached and two (2) family dwellings shall be on their own lots which may be less in area/or frontage than required for conventional development in the zone district. However, the nearest wall of one (1) dwelling shall be no closer than twelve (12') feet to the closest walls of an adjacent dwelling. Each lot shall abut an existing public street or such a street created in the plan.

G. Single family attached dwellings may be on their own lots. Such dwellings shall be not less than sixteen (16') feet in width between the centers of party walls and the average width within a group of attached dwellings shall be not less than eighteen (18') feet. An attached dwelling on its own lot shall occupy not more than forty (40%) percent of the lot area, and the total number of dwellings in an attached group shall not exceed eight (8) in number. Dwelling buildings in a cluster plan shall be set back from the property lines of the original development tract and from all existing streets or streets created in the plan by at least twenty-five (25') feet.

H. Within a plan of attached dwellings or garden apartments, long walls shall be separated by at least forty (40') feet, or an average of forty (40') feet if the walls are not parallel by at least thirty (30') feet if the end wall of one (1) building is next to the long wall of a second building; and, by at least fifteen (15') feet if end walls of two (2) buildings are next to each other. Walls on adjacent buildings shall be considered next to each other if they would overlap by at least six (6') feet if the buildings were moved towards each other to intersect along a plane at right angles to the building's long wall.

I. A homeowners' association shall be required if any or all lots or dwelling units in a plan are to be sold, and land and/or facilities for the use and benefit of the residents of the plan remain as the responsibility of the lot and/or dwelling owners. The text of the rules and regulations establishing and governing the association shall be reviewed and found acceptable by the Borough Solicitor as providing adequate safeguards for both the Borough and the plan residents.

J. Membership in the association shall be a mandatory condition of purchasing a dwelling. Voting power shall be based on one (1) vote per owned dwelling or lot, vested in the owner. However, a positive vote by a majority of those voting at a meeting or by mail ballot shall be sufficient for passage of a motion, provided at least fifty (50%) percent of the total membership participates.

K. All land not to be developed for housing or sold for development shall be recorded as "common open space" on the recorded plan, and shall be described as a separate or separate land parcels. The common open space shall be conveyed to the association. The developer shall be responsible for his share of maintenance, taxes and insurance costs based on the lots or dwellings he still owns at any time.

2. Church, Including Church School and Social Hall, All in the Same Complex (R-1 and R-2 Zones).

A. Such use shall front on a street with a paved width of at least twenty-four (24') feet, connecting to other streets on each end.

B. There shall be no dwelling on the property other than the residence or apartment of the congregation's minister, priest, or rabbi, or a caretaker.

C. Parking areas shall be screened from adjacent residential properties and access points to such areas shall be located to provide maximum sight distances.

3. Public or Semi-Public Not-For-Profit Community Facility or Service (R-1 and R-2 Zones).

A. Such facility shall be operated under a charter and be affiliated with a State or National organization. In addition it shall have responsible officers elected by the membership. The facility shall be for the benefit of the public or the membership, and income shall be used for the administration and improvement of the facility or for charitable purposes.

B. There shall be no dwelling on the property other than the residence of a manager or caretaker.

C. Parking areas shall be screened as required by §507(5) and the Council may require vegetative screening or fencing to enclose outdoor activities of the facility that abut residential properties.

D. The principal access to the facility shall be on a street whose paved width is at least twenty-four (24') feet.

4. Home Occupation (R-1 and R-2 Zones).

A. It may occur in a single family detached dwelling but not in accessory buildings.

B. It shall be operated by the residents of the dwelling and employ no outside help.

C. No exterior changes shall be made to the dwelling to accommodate the home occupation.

D. Retail sales shall be no more than an incidental part of the occupation.

E. Personal services shall be provided only on an appointment basis.

F. Items to be repaired shall be limited to those that can be carried in by one (1) person.

G. If the dwelling is rented, the residents shall have written permission from the owner before commencing the home occupation.

5. Day Care Center (R-1 and R-2 Zones).

A. The facility shall be in a single family dwelling or in a building operated by a public or semi-public agency such as a church or social service organization.

B. The center shall be approved by the Armstrong County Department of Health and the State Department of Welfare.

C. If the facility is to handle six (6) or fewer clients and be operated by the residents of the dwelling containing the facility, it may be considered as a home occupation.

D. There shall be no overnight accommodations for clients of the facility.

E. Parking shall be available on the property for one (1) space for each six (6) clients.

6. Convalescent or Personal Care Home (R-1 and R-2 Zones).

A. The institution shall be accredited by the Commonwealth and sole occupant of the property.

B. The number of residents, not including the operator and his or her family, shall not exceed one (1) for each one thousand (1,000) square feet of lot area.

C. Such an institution may accommodate those recovering from illness who do not need intense care, or dependent elderly adults who need help with dressing, diet or taking medication.

7. Transitional Living Facility (R-1 and R-2 Zones).

A. The facility shall be in a single family dwelling converted for the purpose.

B. It shall be operated by an agency licensed by the Commonwealth and shall accept only persons placed by court order or by an agency of Armstrong County or the Commonwealth.

C. No two (2) such facilities shall be within one thousand (1,000') feet of one another.

D. Trained staff shall be on the premises whenever residents are there.

E. No more than four (4) persons who are clients of the operating agency shall be residents of the facility at any time.

F. Such a facility shall house on a temporary basis foster-placed individuals, persons in transition from institutionalized to independent living or abused persons requiring shelter, but shall not include those recovering from drug, alcoholic or other diseases or persons convicted of a crime and still under detention.

8. Boarding or Lodging House (R-1 Zone).

A. A single family detached dwelling may be owned by or rented to not more than five (5) boarders or lodgers who are not all related by blood, marriage, or adoption or any combination totaling five (5), provided one (1) off-street parking space is available on the lot for each boarder or lodger.

B. The family residing in a single family or in half of a two (2) family dwelling may rent a room or rooms in the dwelling to not more than a total of two (2) boarders or lodgers as an accessory use not requiring conditional use approval.

9. Garden Apartment Building (R-2 Zone).

A. Garden apartment buildings may be on individual lots or grouped two (2) or more on a lot.

B. When several buildings occupy the same or adjacent lots, such buildings shall be separated from one another by at least forty (40') feet when long walls are parallel, or an average of forty (40) feet if long walls are not parallel. Where an end wall and long wall of neighboring buildings are involved, the minimum separation shall be thirty (30') feet and where end walls relate to each other they shall be separated by at least fifteen (15') feet.

C. Apartments shall contain at least three hundred sixty (360) square feet in an efficiency apartment, at least four hundred eighty (480) square feet for a one (1) bedroom apartment, and at least five hundred fifty (550) square feet for a two (2) bedroom unit. There shall not be less than fifteen hundred (1,500) square feet of lot area per apartment.

D. Off-street parking may be pull-in spaces off a rear or side alley provided such spaces are paved and on the same property as the apartment building or on a second property in the same ownership as the apartment building and not more than two hundred (200') feet distance from an entrance to the building.

10. Mobilehome Park (R-2 Zone).

A. Mobilehome parks shall comply with all requirements of the Armstrong County Subdivision and Land Development Chapter pertaining to such parks, except that the following shall supersede the County regulations in case of conflict.

B. All mobilehomes shall abut an interior street within the park and no mobilehome shall have access to a public street.

C. Mobilehomes, if set parallel to each other, shall be no closer than forty (40') feet, or if set end to end no closer than ten (10') feet from each other.

D. Mobilehomes shall be set securely on two (2) or more concrete block piers carried to at least three (3) feet below grade, with the area between the ground level and floor of the home enclosed by a vinyl, metal or masonry skirting, or the mobilehome may be set on a concrete block foundation wall carried to at least three (3') feet below grade, enclosing the area below the home.

(Ord. 244-1944, 4/4/1994)

§603. Criteria for Judgment of Specific Uses in the Business Zone Districts.

1. Bank or Other Financial Institution or Restaurant With Drive-Through Service (B-1 and B-2 Zones).

A. In a drive-through operation, there shall be space available on the property so that at least three (3) cars may line up prior to entering each window or place where service is available.

B. The points of entrance and exit and circulation in the property shall be clearly marked.

C. Circulation of vehicles using service windows and those parking to enter the building shall be clearly designated for motorists on the property.

2. Quick Stop Sales, Including Gasoline Sales (B-1 Zone).

A. Gas pump islands shall not be closer than ten (10') feet to any street right-of-way. Overhanging canopies shall not extend over a right-of-way.

B. Sufficient spaces shall be provided on each side of each pump island on the property to accommodate at least three (3) vehicles being serviced or awaiting services.

C. Access points to the property shall be limited to no more than two (2), each lot greater than thirty-five (35) feet in width at the property line and each as remote as possible from street intersections. If the property abuts a side street, a third access point may be provided, as remote from the street intersection as possible.

D. Parking areas for customers of the store shall be set aside clear of the circulation patterns in and around the gas pumps.

3. Indoor Theatre, Bowling Alley, Billiards or Pool Hall (B-1 Zone).

A. Pool tables and/or electronic games shall be arranged so that an unobstructed aisle at least four (4) feet which leads through the area containing the tables and/or games to a marked building exit. Games and/or tables shall be separated by at least four (4) feet.

B. There shall be an adult supervisor on the premises at all times the business is open, responsible for customer behavior.

4. Tanning, Massage, Physical Fitness or Self Defense Instruction Studio (B-1 Zone).

A. The proposed operator shall provide evidence of his or her experience in running the type of facility requested.

B. If State licensure is required, such certificate shall be provided prior to occupancy of the premises.

C. First aid equipment appropriate to the activity offered, and at least one (1) person trained in its use, shall be available on the premises during business hours.

5. Other Commercial or Business Uses Similar to and Compatible With Those Listed as Permitted (B-1 and B-2 Zone).

A. The business shall be conducted entirely from within a permanent enclosed building except for special sales for a temporary period that may be approved on an individual basis by Council.

B. No products or residue from the business shall be stored outside except licensed parked vehicles.

C. The building required for the use shall be substantially similar in size and appearance to buildings containing permitted uses.

D. The hours of operation shall be similar to those of permitted businesses in the zone district.

6. Auto Repair Garage (B-2 Zone).

A. Discarded auto parts shall be stored within an enclosed building or completely surrounded by a solid fence, or solid fence and building on the property, at least six (6) feet high. Vehicles lacking current license plates and inspection stickers shall not be permitted on the property.

B. Welding, spray painting, or hammer work shall be done in enclosed spaces. Light from welding, odors from painting, and noise from bodywork shall be controlled in the building.

C. No such operation shall be approved if it abuts or is directly across the street from a residential zone or use.

7. Warehouse or Cold Storage Facility (B-2 zone).

A. Access shall be through one (1) control point.

B. The facility shall be completely surrounded by a fence at least six (6') feet in height although the building or buildings can serve as part of the enclosure.

C. All items stored on the premises shall be within enclosed buildings.

D. The apartment or dwelling of the manager or caretaker shall be the only residential use on the property.

E. Council may require landscaping where such a facility abuts lots in residential use.

8. Transportation Terminal (B-2 Zone).

A. There shall be ample space on the property for vehicles using the facility to maneuver without using public streets.

B. Vehicles using the facility may be refueled and/or washed there, but no major truck repair work shall be permitted.

C. An apartment of a caretaker shall be the only residential use on the property.

D. Council may require landscaping where the facility abuts lots in residential use.

9. Lumber and Builders Supply Outlet (B-2 Zone).

A. Buildings and any outdoor storage areas shall be separated from structures on neighboring lots by at least thirty (30') feet, and by at least twenty (20') feet from side or rear property lines.

B. Millwork and sizing of lumber may be permitted on the property but scrap materials and sawdust shall be removed from the premises not less frequently than once a week.

10. Contractors Storage Yard and Garage (B-2 Zone).

A. The outdoor storage area shall be fenced in, and portions facing or abutting residential lots shall be landscaped to obscure stored materials or equipment. In lieu of landscaping, Council may approve a decorative solid fence at least six (6') feet in height.

B. All equipment repair and servicing shall be carried on within an enclosed building.

11. Beverage Distributorship (B-2 Zone).

A. There shall be space on the property to allow at least eight (8) vehicles to wait in line prior to being served.

12. Light Mechanical Assembly Operation (B-2 Zone)

A. Components to be assembled shall be produced from raw or semi-finished materials prepared elsewhere.

B. All aspects of the business shall be conducted entirely within an enclosed building.

(Ord. 244-1944, 4/4/1994)

§604. Criteria for Judgment of Specific Uses in the Industrial Zone District.

1. Manufacturing or Light Industrial Use Similar to and Compatible With Those Uses That are Listed as Permitted.

A. All assembly or processing shall take place within an enclosed building.

B. Outdoor storage of materials or equipment may occur if screened by buildings or a solid fence from viewers on nearby public streets or residential properties.

C. Machinery creating any vibration shall be structurally isolated from the building in which it is located. Noisy machinery shall be placed within insulated enclosures and light or glare producing operations within areas without windows or skylights. Dust and similar residue shall be collected within the building where it emanates and disposed of off the premises on a regular basis by contract hauler.

D. No part of the property shall be used for residential purposes except for the apartment of the owner or operator.

2. Auto Wrecking Yard.

A. Yards shall be surrounded by a solid fence at least six (6) feet high. Natural topography which completely hides the yard from adjacent or nearby residential properties and streets may be substituted.

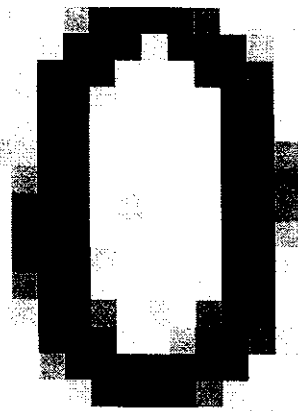
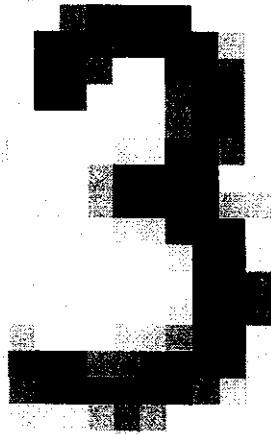
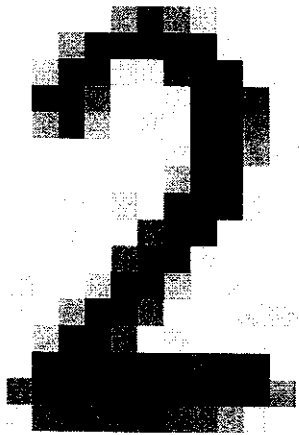
B. An acceptable plan to control rodent infestation and to process and dispose of wrecked vehicles and parts shall be provided and approved.

C. The business shall be operated from a permanent building on the site.

D. The business shall not include the storage or accumulation of tires, waste oils or grease or other inflammable or toxic substances.

E. No such business shall be permitted abutting a residential zone or use.

(Ord. 244-1944, 4/4/1994)



Part 7
Nonconforming Uses

§701. Application.

1. A nonconforming use is an activity which was present on a property before this Chapter was adopted but is not among the list of permitted or conditional uses for the zone district in which the property is located. A nonconformity may later be created by an amendment to the zoning text or map, but in no other manner.

2. A nonconforming structure is one that was constructed on its property before adoption of this Chapter with its setback from one (1) or more property lines less, and/or height greater, than the standards established for the zone district containing the property.

(Ord. 244-1994, 4/4/1994)

§702. Nonconforming Uses.

1. A nonconforming use may be expanded by twenty-five (25%) percent beyond the area on the ground it occupied when this Chapter was adopted but not onto land acquired by the owner of the use after adoption of this Chapter. A nonconforming structure may be expanded by twenty-five (25%) percent in volume over the volume of the structure when this Chapter was adopted. In neither case shall such expansion occur outside the setback lines within property. A nonconforming use may be expanded to occupy all of a structure it occupied in part when this Chapter was adopted but then may not be further expanded.

2. If a nonconforming use is discontinued for a period of at least one (1) year for any reason, any use of the property thereafter shall be in conformance with the development regulations for the zone district containing the property. If the owner of the nonconforming use claims the one (1) year period is too short because of financial, health or other hardship, he may appeal to the Zoning Hearing Board for an extension not to exceed one (1) additional year. Discontinuance of a nonconforming use shall be indicated by the removal of stock-in-trade and/or permanent equipment needed to operate the use.

3. A nonconforming use may be changed to a second nonconforming use provided that an application for the second use is filed with the Zoning Hearing Board and the Board finds that the proposed use is more compatible with the uses permitted in the zone district than the preceding nonconforming use.

4. A nonconforming use may be sold by one (1) owner to the next but each succeeding owner of a nonconforming commercial or industrial use shall receive approval of the Zoning Officer before commencing operation to assure that the use will be operated in the same manner as formerly.

5. Once a nonconforming use is changed to a conforming use it may not thereafter revert to nonconforming status. If a nonconforming use occupies a building and is discontinued, any nonconforming use of the property shall also cease.

(Ord. 244-1994, 4/4/1994)

§703. Nonconforming Structures.

1. No structure shall be enlarged or altered to create a nonconformity or increase an existing nonconformity except in compliance with §702(1) above.

2. Replacement of a nonconforming structure shall be done with respect to the setback and height requirements for the zone district containing the property, except that if the owner alleges a hardship he may petition the Zoning Hearing Board to grant approval of replacement on the foundation of the building to be replaced but in no case in a location more nonconforming than the original location.

(Ord. 244-1994, 4/4/1994)

§704. Record of Nonconforming Uses.

1. The Zoning Officer shall identify and record all uses of land and buildings in the Borough made nonconforming by adoption of this Chapter. All uses that are not permitted by right or are not conditional uses in a particular zone district shall be considered as nonconforming.

2. The Zoning Officer shall keep the record current as amendments to this Chapter create new nonconforming uses, and as removal of buildings and uses eliminates nonconforming uses.

3. The record may be kept by map or written documentation.

(Ord. 244-1994, 4/4/1994)

Part 8

Zoning Hearing Board

§801. 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 five (5) residents of the Borough appointed by resolution by the Borough Council. The terms of office shall be for five (5) years and shall be so fixed that the term of office of one (1) member shall expire each year. The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion. 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 fifteen (15) days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

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. 244-1994, 4/4/1994)

§802. 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 (1) week prior to the hearing.

2. The hearing shall be held within sixty (60) days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.

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 person 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 forty-five (45) days after the last

hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this Chapter or of any law, ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within forty-five (45) days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than thirty (30) days after the report of the hearing officer. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within sixty (60) days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of the said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in subsection (1) of this Section. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

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.

(Ord. 244-1994, 4/4/1994)

§803. 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 thirty (30) days after the effective date of said ordinance. Where the ordinance appealed from is the initial zoning ordinance of the Borough and a Zoning Hearing Board has not been previously

established, the appeal raising procedural questions shall be taken directly to court.

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

2. The 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. 244-1994, 4/4/1994)

§804. 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. 244-1994, 4/4/1994)

§805. Parties Appellant Before the Board. Appeals raising the substantive validity of any land use ordinance (except those to be brought before the Borough Council pursuant to the Pennsylvania Municipalities Code, procedural questions or alleged defects in the process of enactment or adoption of a land use ordinance; or from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot; from a determination by the Borough engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance; from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this Chapter; from the determination of the Zoning Officer or Borough engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and 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. 244-1994, 4/4/1994)

§806. Time Limitations.

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

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

(Ord. 244-1994, 4/4/1994)

§807. Stay of Proceedings.

1. Upon filing of any appeal proceeding before the Zoning Hearing Board and during its pendency before the Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent

peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals, on petition, after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board.

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

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

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

(Ord. 244-1994, 4/4/1994)

§808. 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. 244-1994, 4/4/1994)

§809. Conditional Uses. Where the Borough Council, in this Chapter, has stated conditional uses to be granted or denied by the Borough Council pursuant to express standards and criteria, the Borough Council shall hold hearings on and decide requests for such conditional uses in accordance with such standards and criteria. In granting a conditional use, the Borough Council may attach such reasonable conditions and safeguards, in addition to those expressed in this Chapter, as it may deem necessary to implement the purposes of this Chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 et seq. (Ord. 244-1994, 4/4/1994)

Part 9
Administration

§901. Duties of the Zoning Officer. Appointment and Powers of the 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.
5. The Zoning Officer shall receive and process applications for zoning permits and permissions to occupy in accordance with this Chapter, and shall not permit any construction or any use or change of use which does not conform to this Chapter.
6. The Zoning Officer shall investigate alleged violations and take action in accordance with §904 of this Chapter. He shall also testify before the Zoning Hearing Board on contested decisions he has made or when otherwise called to testify. He shall not be denied access to any property in the course of administering and enforcing this Chapter.
7. All questions of interpretation of this Chapter shall be first presented to the Zoning Officer, who shall make a decision thereon. Such questions shall be considered by the Zoning Hearing Board only on appeal from the Zoning Officer's decision.
8. In addition the Zoning Officer shall represent the Borough at hearings before the District Magistrate (see §904), shall maintain public files of all permits issued and applications processed, shall attend meetings of Council to provide a monthly report of his activities (see §902(8)), shall examine permitted work in progress (§902(5)), and shall prepare and maintain a record of nonconforming uses (see §704).

(Ord. 244-1994, 4/4/1994)

§902. Building Permits.

1. No building or structure, including a mobilehome, shall be erected, moved, or enlarged unless a building permit for such action has been issued by the Zoning Officer. Permits shall not be required for the repaving of existing residential driveways, for painting, for repointing masonry, or for altering interior partitions or doorways when no structural changes are needed. Once a permit has been issued by the Zoning Officer, anyone aggrieved by that action may, within thirty (30) days thereafter, appeal the action to the Zoning Hearing Board.

2. An application for a building permit shall include the following in duplicate on forms provided by the Zoning Officer. A site plan may be waived by the Zoning Officer if the application includes no construction outside the existing buildings on the lot.

A. A site plan drawn to scale showing the location and height of the proposed new construction on the property relative to property boundaries and abutting street, with distances indicated, the location of driveway entrances, signs, and off-street parking areas noting the arrangement of spaces, and any grading contemplated.

B. A statement describing the proposed use of the new construction and the length, width and height of its components.

C. Approval from the State Department of Labor and Industry if an enclosed structure other than a one (1) family detached or two-family dwelling is proposed.

D. Affidavit of the applicant that all information provided is true and correct to the best of his knowledge.

3. If the application is satisfactory, the Zoning Officer shall inspect the premises where the construction is proposed to occur. If new construction is proposed, the Zoning Officer shall verify on the site the location of the construction relative to adjacent property lines and may order the owner to have stakes positioned by a registered surveyor to indicate the property line and inspection of the new construction. Upon completing his inspection and finding the application and premises compatible, the Zoning Officer shall collect the appropriate building permit fee (see §906), approve the application and return one (1) copy together with a signed building permit authorizing the applicant to proceed. The applicant shall post the permit prominently on the building site during construction.

4. If the application is not satisfactory, the Zoning Officer shall return one (1) copy of the application together with a letter indicating the specific reasons why the application cannot be approved and the changes needed to make it acceptable.

5. The Zoning Officer shall from time to time visit the property whereon the approved construction is taking place in order to assure himself that the work is proceeding in accordance with the building permit. The Zoning Officer shall not be denied access to the property during working hours in order to inspect the construction in progress, and may order the work corrected to conform to the permit or halted pending appeal to the Zoning Hearing Board.

6. If an applicant wishes to amend the use, arrangement or construction of his building from that shown on the permit after the permit is approved, he shall file with the Zoning Officer an application for an amended building permit.

7. A building permit shall become void, if after six (6) months from the date of issue, construction has not commenced and been vigorously pursued. The life of a building permit shall be one (1) year from the date of issue. Permits may be extended for not more than one (1) additional year on large projects or where the applicant can prove to the Zoning Officer a hardship exists making it impossible to complete the project in

one (1) year. Once a permit has become void, a replacement permit may be obtained in the same manner as for the original permit.

8. A permit shall be required for the removal of any building or part of any building. The applicant shall be responsible for backfilling any excavation created by the razing and for the removal of all debris on the lot within sixty (60) days after the issuance of the permit.

9. The Zoning Officer shall keep records of all applications either approved or disapproved, including one (1) copy of each permit issued, shall maintain a journal of his activities, and shall submit a monthly report and an annual summation report to Borough Council detailing building activity in the Borough during the preceding year.

(Ord. 244-1994, 4/4/1994)

§903. Permission to Occupy.

1. Before the use of a property or structure can be changed, or a property occupied without the need of a building permit, the owner shall secure the approval of the Zoning Officer in writing. Such approval shall be required also whenever a greater number of dwelling units are being installed in a structure, a home occupation is introduced or changed, or commercial or industrial premises are converted to a second commercial or industrial use.

2. The owner shall be responsible for the use of his property, even though he leases it to others, and for securing the necessary permission if needed.

(Ord. 244-1994, 4/4/1994)

§904. Enforcement and Penalties.

1. Enforcement Notice.

A. 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.

B. 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.

C. An enforcement notice shall state at least the following:

- (1) The name of the owner of record and any other person against whom the Borough intends to take action.
- (2) The location of the property in violation.
- (3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Chapter.
- (4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

not. to be given back to Council on these grounds

(5) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a period of ten (10) days.

(6) 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.

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

~~2.~~
A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than five hundred (\$500.00) dollars plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this Chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one (1) such violation until the fifth (5th) day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation.

B. 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.

C. 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.

D. District justices shall have initial jurisdiction over proceedings brought under this Section.

§905. 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 (1) 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 thirty (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 thirty (30) days prior to the public hearing on the amendment by the Borough Council, the Borough shall submit the proposed amendment to the county planning agency for recommendations.

6. Within thirty (30) days after enactment, a copy of the amendment to this Chapter shall be forwarded to the county planning agency.

(Ord. 244-1994, 4/4/1994)

§906. 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

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

(Ord. 244-1994, 4/4/1994)

§907. 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 thirty (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 one hundred eighty (180) days from the date of the declaration and proposal, the Borough shall enact a curative amendment to validate, or reaffirm the validity of, this Chapter pursuant to the provisions of §609 of the Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. §10609, in order to cure the declared invalidity of this Chapter.

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 thirty-six (36) months following the date of enactment of a curative amendment, or reaffirmation of the validity of this Chapter; Provided, however, if after the date of declaration and proposal there is a substantially new duty imposed upon the Borough by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, the Borough may utilize the provisions of this Section to propose a curative amendment to this Chapter to fulfill said duty or obligation.

(Ord. 244-1994, 4/4/1994)

§908. Schedule of Fees.

1. Council shall establish by resolution a schedule of fees to cover the cost of permits, conditional use approvals, petitions to amend the ordinance, or any action brought before the Zoning Hearing Board.

2. The current fee schedule shall be available at the office of the Borough Secretary and may be amended only by official resolution of Council.

3. No permit shall be issued nor any action taken on proceedings before Council or the Zoning Hearing Board until the appropriate fees have been paid in full.

(Ord. 244-1994, 4/4/1994)

248

**NORTH APOLLO BOROUGH
ARMSTRONG COUNTY, PENNSYLVANIA
APPLICATION FOR ZONING/PLANNING USE/ADJUSTMENT**

1. Name of Applicant: _____
2. Address: _____
3. Name of Land Owner: _____
4. Address: _____
5. Tax Map Number of subject property (can be obtained from local or school district real estate tax bill): _____
6. Type of application (check one): Use by special exception Validity challenge
 Appeal from Municipal action variance Conditional use (planning board action)
7. Please list all applicable sections of zoning ordinance requiring review:

8. Description of property: _____

9. Subject property address: _____
10. Subject property zoning classification: _____
11. Subject property lot size: _____
12. Present use of property: _____
13. Proposed use (in detail): _____

14. Approximate cost of proposed work: _____
15. Please identify all grounds for appeal: _____

16. Has a previous application been filed with the Borough of North Apollo for this property?

17. Special instructions:
1. This application must be filed in triplicate with the Zoning Officer;
 2. Upon filing, the applicant must supply a notarized original and two photocopies;
 3. The applicant must supply the required fee; and,
 4. The applicant must supply copies of a plot plan for this property or survey (if available) all drawings submitted must be to scale.

Name of Applicant

Sworn to and subscribed
before me this _____ day
of _____, _____.

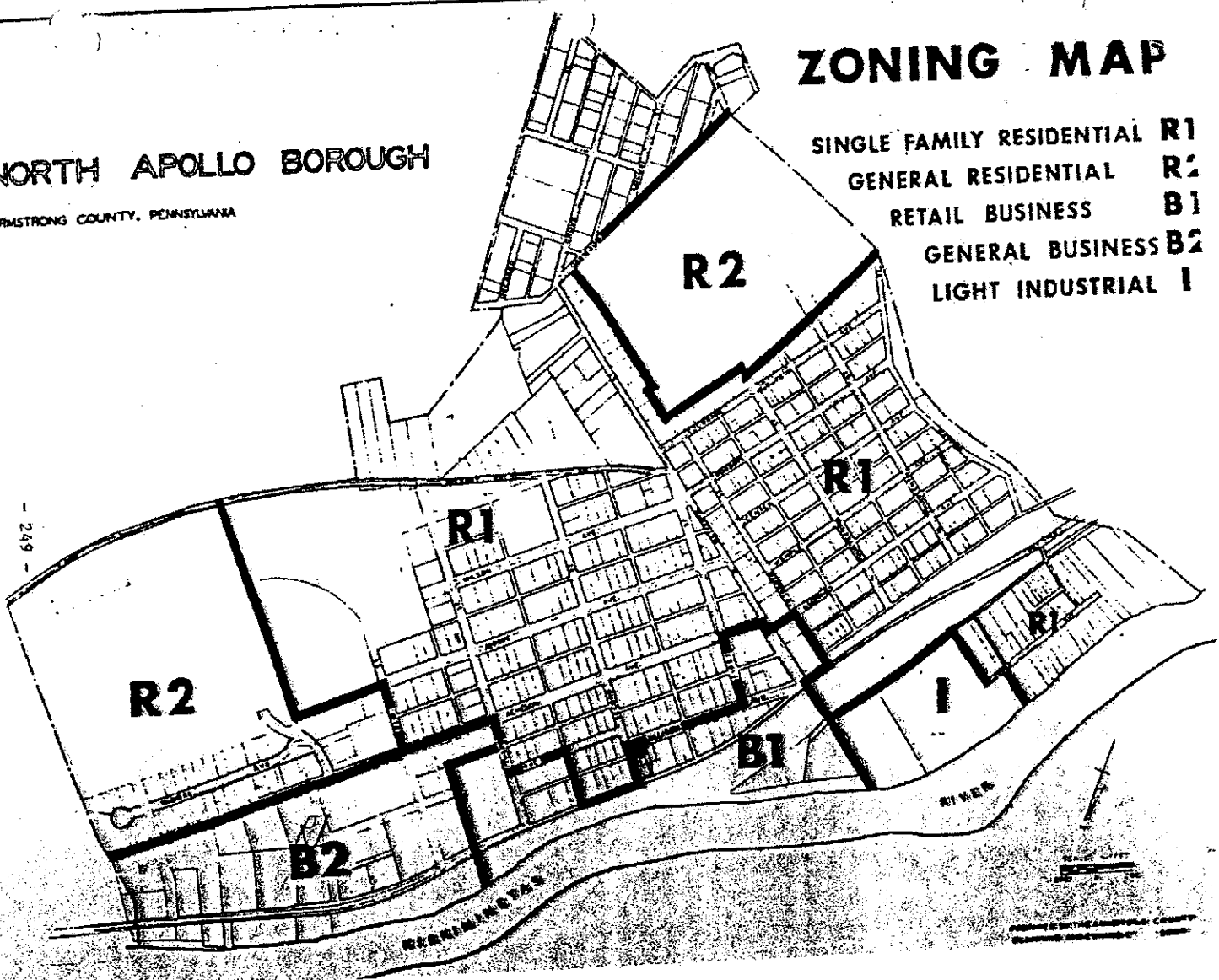
Notary Public

NORTH APOLLO BOROUGH

ARMSTRONG COUNTY, PENNSYLVANIA

ZONING MAP

- SINGLE FAMILY RESIDENTIAL R1
- GENERAL RESIDENTIAL R2
- RETAIL BUSINESS B1
- GENERAL BUSINESS B2
- LIGHT INDUSTRIAL I



- 249 -

PREPARED BY THE ARMSTRONG COUNTY PLANNING DEPARTMENT