
ZONING ORDINANCE

**BOROUGH OF
MERCERSBURG**

FRANKLIN COUNTY, PENNSYLVANIA

DEVELOPED UNDER THE DIRECTION
OF THE FOLLOWING BOROUGH OF MERCERSBURG OFFICIALS
1993-1994:

BOROUGH COUNCIL

Robert Brindle, President
Delores Price, Vice-President
Thomas Suddeth
Richard Rice
Judith Gossert
John Pentz
Ed Twine
James Smith, former President
John Burke, former member
Thomas Ralston, former member
John Snider Jr., former member

MAYOR

Thomas Ralston
Henry Steiger, former Mayor

TOWNSHIP SOLICITOR

Thomas Finucane, Esq.

ZONING HEARING BOARD SOLICITOR

Michael Toms, Esq.

BOROUGH ENGINEERS

Associated Engineering

HISTORIC PRESERVATION
CONSULTANTS

Taylor & Taylor Associates

PLANNING COMMISSION

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Julia Grove
Jeanne Rader
Carl Gluck
Harold Wagner
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REVIEW BOARD

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Eugenio Sancho
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Henry Kittredge
Carol Rice

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Urban Research and Development Corporation
Bethlehem, Pennsylvania

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MERCERSBURG BOROUGH ZONING ORDINANCE
ENACTMENT

1. TITLE. An Ordinance: a) dividing the Mercersburg Borough into districts and regulating the use of land and the location, use and density of buildings within these districts; b) providing for the administration, implementation and enforcement of this Ordinance; c) permitting, prohibiting, regulating and determining the uses of land, watercourses and other bodies of water, the size, height, bulk, location, erection, construction, repair, maintenance, alteration, razing, removal and use of structures, the areas and dimensions of land and bodies of water to be occupied by uses and structures, as well as areas, courts, yards and other open spaces and distances to be left unoccupied by uses and structures, d) establishing the maximum density and intensity of development; and e) establishing provisions for special exceptions and variances to be administered by a Zoning Hearing Board.
2. SHORT TITLE. This Ordinance shall be known and be cited as the "Mercersburg Borough Zoning Ordinance" of 1994.
3. SEVERABILITY. It is hereby declared to be the legislative intent that:
 - 3.A. If a court of competent jurisdiction declares any provisions of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance shall continue to be separately and fully effective.
 - 3.B. The Borough Council hereby declares that it would have passed this Ordinance and each section or part thereof irrespective of the fact that any one or more sections or parts thereof be declared invalid.
4. REPEALER. All other Borough ordinances or resolutions or parts thereof that were adopted prior to this Ordinance and are clearly in direct conflict with this Ordinance are hereby repealed, including the pre-existing Mercersburg Borough Zoning Ordinance of 1975, as amended, and including sections of the Mercersburg Borough Subdivision and Land Development Ordinance of 1974, as amended, that directly conflict with this new Ordinance, including but not limited to Section 1002. parts e., f. and h. The pre-existing Historic District Ordinance No. 202 and subsequent amendments Nos. 207, 252 and 263 are hereby repealed and replaced with Article IX of this Ordinance. The pre-existing Historic District Map is continued in effect and is hereby included in this Ordinance by reference.
5. ENACTMENT. Under the authority conferred by the PA. Municipalities Planning Code, as amended, the Borough Council of Mercersburg Borough hereby enacts and ordains into an Ordinance the attached document this date of June 13, 1994. This Ordinance shall become effective immediately.

Date of Planning Commission Public Meeting: December 6, 1993

Date of Borough Council Public Hearing: June 6 , 1994

ENACTMENT - ZONING ORDINANCE (Continued)

Robert L. Brindle
President, Borough Council, Borough of Mercersburg

Adithy K. Chak
Attest, Borough Secretary

MAYOR' APPROVAL: Now this the 23rd June day of 1994, the foregoing Ordinance is approved.

Thomas J. Collins
Mayor, Borough of Mercersburg

ARTICLE I

GENERAL PROVISIONS AND ADMINISTRATION

101. **PURPOSES AND OBJECTIVES.** This Ordinance is hereby adopted: 1) in accordance with the requirements and purposes (including Section 604 or its successor section, which is included by reference) of the PA. Municipalities Planning Code, as amended, 2) in accordance with the community development goals and objectives (which are included by reference) of the Mercersburg Borough Comprehensive Plan of 1994 (as may be amended), which constitutes an overall program, 3) in consideration of the character of the Borough, its various parts and the suitability of the various parts for particular uses and structures, and 4) to assist in carrying out the purposes and provisions of the Constitution of the Commonwealth of Pennsylvania (especially Article I, Section 27), the PA. Floodplain Management Act, PA. Storm Water Management Act, PA. DER regulations on erosion and sedimentation control, PA. Dept. of Transportation regulations on highway access control and other relevant Federal and State laws, regulations, official policies and relevant Court decisions.
102. **APPLICABILITY.**
- 102.A. Any activity regulated by this Ordinance shall only occur in such a way that conforms with the regulations of this Ordinance.
- 102.B. This Ordinance regulates matters authorized by Section 603 "Ordinance Provisions" of the PA. Municipalities Planning Code, or such successor section.
- 102.C. All readers maintain the responsibility to procure the latest amendments to this Ordinance.
103. **ENFORCEMENT, VIOLATIONS AND PENALTIES.** See Sections 616 and 617 of the PA. Municipalities Planning Code.
104. **FILING FEES AND COSTS.** The Borough Council has established by resolution a schedule of fees and a collection procedure relating to all applications filed pertaining to this Ordinance. No application or appeal shall be considered filed until all fees are paid.
105. **INTERPRETATION AND SIMILAR USES.**
- 105.A. **Minimum Requirements.** The provisions of this Ordinance shall be interpreted as the minimum requirements to promote public health, safety and general welfare. Where a provision of this Ordinance differs or conflicts with any other provision of this Ordinance or any other ordinance, regulation or law, the provision that is more restrictive upon uses and structures shall apply.
- 105.B. **Uses Not Specifically Regulated.** If a use clearly is not permitted by right, by condition or by special exception by this Ordinance within any Zoning District, the use is prohibited in the Borough, except the applicant may apply to the Zoning Hearing Board. The Zoning Hearing Board may permit such use if the applicant proves all of the following to the satisfaction of the Zoning Hearing Board:
1. that the use would clearly be less offensive in impacts and nuisances than uses permitted in that District,
 2. that the use would be compatible with permitted uses in that District,
 3. that the proposed use would be compatible with the purposes of the District,
 4. that the use can meet the standards listed in Section 118.C., and

5. that the use is not "specifically prohibited" in the District.

105.C. Sketches. Sketches in this Ordinance are for illustrative purposes only and are not regulatory.

105.D. Interpretation of Ordinance Text and Boundaries. The Zoning Officer shall apply the wording of this Ordinance and the location of all District boundaries to particular applications. The Zoning Officer may request an advisory opinion from the Borough Solicitor or the Zoning Hearing Board Solicitor. See Section 111 and the Borough fee schedule concerning appeals by an applicant.

106. **GENERAL PROCEDURE FOR PERMITS.**

106.A. After receiving a proper application, the Zoning Officer shall either 1) authorize the issuance of any required Permit under this Ordinance or 2) state that the application does not comply with this Ordinance. After receiving a proper application, reasons for a refusal should then be stated in writing.

106.B. Reviews. Certain activities require review and/or approval of the Zoning Hearing Board and/or of the Borough Council, and/or the recommendations of the Historic Architectural Review Board and/or the Planning Commission.

106.C. Appeal. Any decision of the Zoning Officer may be appealed for just cause to the Zoning Hearing Board, provided that the person(s) appealing has standing.

106.D. After receiving approval from the Zoning Officer, and receiving any required Permit under this Ordinance, the applicant may undertake the specified action, within compliance with other Borough Ordinances. However, it is recommended that applicants wait 30 days to begin construction if there is a possibility of an appeal by another party to have the permit or approval revoked. Any commencement of construction or a use within this 30 day appeal period shall be at the risk of the applicant.

107. **PERMITS AND CERTIFICATES.**

107.A. Applicability. Any of the following activities or any other activity regulated by this Ordinance shall only be carried out after receipt of any required approval or permit and in compliance with this Ordinance:

1. erection, construction, movement, placement or extension of a structure, building or sign,
2. change of the type of use or expansion of the use of a structure or area of land,
3. establishment of a use, and/or
4. creation of a lot or alteration of lot lines.

107.B. Types of Uses.

1. Permitted by Right Uses. The Zoning Officer shall issue a permit under this Ordinance in response to an application for a use that is "permitted by right" if it meets all of the requirements of this Ordinance.

2. **Special Exception Use or Application Requiring a Variance.** A permit under this Ordinance for an application requiring a Special Exception or Variance shall be issued by the Zoning Officer only upon the written order of the Zoning Hearing Board after a hearing.

107.C. Applications.

1. Any request for a decision, interpretation or variance by the Zoning Hearing Board or for a Permit under this Ordinance shall be made in writing on a form provided by the Borough. Such completed application, with any required fees, and with any required site plans or other required information, shall be submitted to a Borough employee responsible for processing such application. The applicant is responsible to ensure that a responsible Borough official notes the date of the official receipt on the application.
2. Five copies of a site plan shall be submitted if an application requires action by the Zoning Hearing Board, and 2 copies shall be submitted if action by the Board is not required. Such site plan shall be drawn to scale.
3. Any application to the Zoning Officer or Zoning Hearing Board shall include the following information, unless the Zoning Officer determines that a site plan or such information is unnecessary to determine compliance with this Ordinance:
 - a. the location and dimensions of the lot,
 - b. locations, dimensions and uses of existing and proposed structures, parking and loading areas, and locations of existing and proposed uses of areas of land,
 - c. name and address of the applicant or appellant,
 - d. name and address of the owner of the subject property,
 - e. a description of the proposed use of the property,
 - f. such additional information that the Zoning Officer may determine is reasonably necessary to determine compliance with this Ordinance and
 - g. all other applicable information listed on the official Borough application form.
4. **Submittals to the Board.** In addition to the information listed in part "3." above, an application requiring a site plan and action by the Zoning Hearing Board shall also include the following information, unless the Zoning Officer determines that such information is unnecessary to determine whether the proposal complies with this Ordinance:
 - a. the present zoning district and major applicable lot requirements,
 - b. a description of any proposed non-residential operations and storage in sufficient detail to indicate potential nuisances and hazards regarding noise, large truck traffic, glare, odors, dust, fire or toxic or explosive hazards or other significant public health and safety hazards,
 - c. if a non-residential use is proposed within close proximity to dwellings, a description of hours of operation,
 - d. a listing of any sections of this Ordinance being appealed, with the reason(s) for any appeal.
5. **Other Laws.** The Zoning Officer may delay or suspend issuance of a permit under this Ordinance if there is knowledge by him or her that such a use would violate another Borough, State or Federal law or regulation, until the applicant proves to the satisfaction of the Zoning Officer that such use is in compliance with such law or regulation.
6. **Ownership.** No person other than a landowner or his/her specifically authorized agent or a tenant or leasee with written permission of the landowner shall submit a zoning application (see definition of "landowner" in Article II).

7. The Zoning Officer may submit a copy of any plan and application to any appropriate agencies and/or individuals (such as the Planning Commission, the County Conservation District or the Borough Engineer) for review and comment.

107.D. Issuance of Permit.

1. At least 2 copies of any permit required under this Ordinance shall be made.
2. One copy of any such permit shall be retained in Borough files. One copy shall be retained by the applicant. A copy of any such permit shall be shown by the applicant to the Zoning Officer upon the Zoning Officer's request.

107.E. Revocation of Permits. The Zoning Officer shall revoke a permit or approval issued under the provisions of the Zoning Ordinance in case of:

1. any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based (The Pennsylvania Criminal Code provides for penalties for providing false information to a municipal employee in carrying out his/her duties.), or
2. upon violation of any condition lawfully imposed upon a special exception use, conditional use or variance,
3. any work being accomplished or use of land or structures in such a way that does not comply with this Ordinance or an approved site plan or approved permit application or
4. for any other just cause set forth in this Ordinance.

107.F. Temporary Permit. See Section 805.

107.G. Changes to Approved Plans.

1. After the issuance of a permit and/or approval of a site plan under this Ordinance by the Borough, such approved application and/or site plan shall not be changed without the written consent of the Zoning Officer.
2. Changes to a site plan approved by the Zoning Hearing Board as a special exception use or by the Borough Council as a conditional use shall require re-approval of the changes by such bodies if the Zoning Officer determines that such changes significantly affect matters that were within Council's or the Board's approval. Such approval by the Hearing Board or Borough Council is not required for minor technical adjustments or corrections of information that do not affect the significant features of the site plan and the intensity of the use, as determined by the Zoning Officer.

108. AMENDMENTS TO THIS ORDINANCE.

108.A. Borough Council may amend, challenge, or repeal any or all portions of this Ordinance on 1) its own motion or 2) upon agreeing to hear a written request of any person, entity or the Planning Commission.

108.B. Before voting on the enactment of an amendment, the Borough Council shall hold a public hearing thereon, following the procedural requirements of the PA. Municipalities Planning Code, including public notice.

108.C. Review of Amendments.

1. In the case of an amendment other than that prepared by or under the direction of the Planning Commission, the Borough Council shall submit each such amendment to the Planning Commission at least 30 days prior to the hearing on such proposed amendment and permit the Commission an opportunity to provide recommendations.
 2. **County Review.** The Borough shall submit the proposed amendment to the County Planning Commission for recommendations at least 30 days prior to the hearing on such proposed amendment. No action shall be taken by the Borough Council until any County comments are received, unless 30 days pass without such comments being received.
- 108.D. Changes After a Hearing. If, after any public hearing held upon an amendment, the proposed amendment is revised, or further revised, to include or exclude land previously not affected by it, the Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the proposed amendment.
- 108.E. Application for Ordinance Amendment. Any request for amendment of the Zoning Ordinance (including supplement, change or repeal) by any person or entity (other than the Borough Staff, Planning Commission, Borough Council or committee appointed by the Borough Council or under the direct oversight of such entity) shall include the following:
1. A statement of why the change may be in the best interests of the Borough;
 2. A statement addressing any adverse affects on adjacent residences;
 3. A statement addressing any major traffic access or congestion concerns;
 4. A map showing the proposed boundaries of any proposed map changes, the existing zoning of the land and of adjacent lands and the current uses of adjacent lots; and
 5. A statement explaining proposed extensions and major improvements, if needed, of public water and sewer systems to serve the land area.

109. CURATIVE AMENDMENTS.

- 109.A. Submittal. A landowner who desires to challenge on substantive grounds the validity of this Ordinance which prohibits or restricts the use or development of land in which he/she has an interest, may submit a curative amendment to the Borough Council with a written request that this challenge and proposed amendment be heard and decided as provided in the PA. Municipalities Planning Code.
- 109.B. Curative Fees. For a curative amendment request, the applicant shall pay the Borough all fees required under the applicable Borough fee schedule and, at a minimum, shall compensate the Borough for all actual expenses for legal advertising.

110. ZONING OFFICER.

- 110.A. Appointment. The Zoning Officer(s) shall be appointed by the Borough Council. The Zoning Officer(s) shall not hold any elective office within the Borough, but may hold other appointed offices.
- 110.B. Duties and Powers. The Zoning Officer shall:
1. administer the Zoning Ordinance;
 2. receive and examine all applications required under the terms of this Ordinance, and issue or refuse permits within this Ordinance;
 3. receive complaints of violation of this Ordinance, and issue a written notice of violation to any person violating any provision of this Ordinance;

4. keep records of applications, permits, certificates, written decisions and interpretations issued, of variances granted by the Board, of complaints received, of inspections made, of reports rendered, and of notice or orders issued; and make all required inspections and perform all other duties as called for in this Ordinance;
5. not have the power to permit any activity which does not conform to this Ordinance, or all other Ordinances of the Borough.

111. ZONING HEARING BOARD ACTIONS AND VARIANCES.

111.A. Appointment. The Zoning Hearing Board shall be continued and shall consist of 3 residents of the Borough appointed by the Borough Council, unless a differing number of members are authorized by another valid Borough ordinance. Alternate members may be appointed within the provisions of the PA. Municipalities Planning Code. Board members shall serve terms of 3 years, so fixed that the term of office of no more than one member expires each year. Members of the Board shall hold no elected office in the Borough.

111.B. Vacancies. The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of a term.

111.C. Removal of Members. See Section 905 of the Pa. Municipalities Planning Code.

111.D. Organization.

1. Officers. The Board shall elect officers from its own membership. Officers shall serve annual terms and may succeed themselves.
2. Quorum. For the conduct of any hearing and taking of any action a quorum shall be not less than a majority of all members of the Board, except that 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 by the PA. Municipalities Planning Code.
3. Rules. The Board may make, alter, and rescind rules and forms for its procedure, consistent with all applicable Borough ordinances and State law.

111.E. Zoning Hearing Board Functions. In addition to any other duties specified in the PA. Municipalities Planning Code, the Zoning Hearing Board shall be responsible for the following:

1. Appeal of a Decision by the Zoning Officer.
 - a. The Board shall hear and decide appeals where it is alleged by the appellant (a person affected or any agency of the Borough) that the Zoning Officer has failed to follow prescribed procedures, or has misinterpreted or misapplied any valid provision of this Ordinance.
 - b. See time limitations for appeals in Section 111.F.
2. Challenge to the Validity of the Ordinance or Map.
 - a. The Board shall hear challenges to the validity of this Ordinance filed with the Board in writing by the landowner affected, any officer or agency of the Borough, or any person aggrieved.

- b. After the conclusion of the hearing(s), the Board shall decide all questions and shall make findings on all relevant issues of fact within the time limits of the PA. Municipalities Planning Code.

3. Variances.

- a. The Board shall hear requests for variances filed with the Board in writing by any landowner (or any tenant with the permission of such landowner).
- b. Standards. The Board may grant a variance only within the limitations of State law. (As of 1994, the PA. Municipalities Planning Code provided that all of the following findings must be made, where relevant:
 - i) 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 Ordinance in the neighborhood or district in which the property is located;
 - ii) Because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and a variance is therefore necessary to enable the reasonable use of the property;
 - iii) Such unnecessary hardship has not been created by the appellant;
 - iv) The variance, if authorized, will neither 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; and
 - v) 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.)
- c. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and to protect the public health and safety and to avoid public nuisances. Conditions imposed by the Zoning Hearing Board shall automatically become conditions of the construction permit issued pursuant thereto, and any failure to comply with said conditions shall be a violation of this Ordinance.

4. Special Exception Uses.

- a. The Board shall hear and decide requests for all special exceptions filed with the Board in writing by any landowner (or any tenant with the permission of such landowner), as provided in this Ordinance and in accordance with such standards and criteria contained in this Ordinance and the procedures in Section 118.
- b. Conditions. In granting a special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards (in addition to those expressed in the Ordinance) as it may deem necessary to implement the purposes of this Ordinance, to protect the public health and safety and to avoid public nuisances. Conditions imposed by the Zoning Hearing Board shall automatically become conditions of the construction permit issued pursuant thereto, and any failure to comply with said conditions shall be a violation of this Ordinance.

5. Hearings. See Section 112.

6. Records and Reports. The staff to the Board shall keep full public records of its business.

7. **Court Appeals.** In the case of an appeal from the Board to the Court of Common Pleas, the Appellant shall make the return required by law, and should promptly notify the Borough Zoning Hearing Board Solicitor of such appeal.

111.F. Time Limitations for Appeals. The time limitations for appeals shall be as follows:

1. No person shall be allowed to file any appeal with the Zoning Hearing Board later than 30 days after the decision by the Zoning Officer that is being appealed has been officially issued, or appeal with the County Court of Common Pleas later than 30 days after a decision of the Zoning Hearing Board has been officially issued, except as may be provided under Section 914.1 of the PA. Municipalities Planning Code.
2. The failure of an aggrieved person other than the landowner to appeal an adverse decision directly related to a preliminary subdivision or land development plan shall preclude an appeal from a final plan approval except in the case where the final submission substantially deviates from the approved preliminary plan.
3. This 30 day time limit for appeals shall not apply to the revocation of a permit under Section 107.E., and shall not limit action by the Borough where a use was operated or a structure was erected or expanded without a required Borough approval or permit.

111.H. Stay of Proceedings. See Section 916 of the PA. Municipalities Planning Code.

111.I. Time Limitations on Permits and Variances.

1. After a variance is approved or approval is officially authorized under this Ordinance, then a permit shall be secured by the applicant within 6 months after the date of such approval or authorization. Such action under such permit shall then begin within 12 months of the issuance of the permit.
2. If the applicant submits complete plans for a required site plan review or subdivision or land development approval or special exception or conditional use approval that is related to the variance or issuance of a permit under this Ordinance within the above time limits, then such time limits shall begin after such plan review is completed or such plan approval is granted.
3. For good cause the Zoning Officer may, upon application in writing stating the reasons therefore, extend in writing the 6-month application period up to 18 months.
4. If an applicant fails to obtain the necessary permits within the above time period, or after obtained the permit fails to diligently commence substantial construction within 12 months or allows interruptions in substantial construction of longer than 6 months, it shall be conclusively presumed that the applicant has waived, withdrawn or abandoned the approval, and all such approvals, variances and permits shall be deemed automatically rescinded.
5. Any building construction shall be completed within 36 months of issuance of an applicable permit, unless a written extension is granted by the Zoning Officer for good cause.

112. **BOARD HEARINGS AND DECISIONS.** The Board shall conduct hearings and make decisions in accordance with the following:

112.A. Notice of Hearings. Notice of all hearings of the Board shall be given as follows:

1. Ad. Public notice shall be published, as defined by Section 107 of the PA. Municipalities Planning Code. The Notice shall state the time and place of the hearing and the particular nature of the matter to be considered.
2. Posting. Notice of such hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing. It is the responsibility of the applicant to ensure that such notice is posted and remains posted until the hearing.
3. Persons Given Notice. Written notice shall be given to the Applicant and the Zoning Officer. Notice shall be given to owners of property of record abutting or directly across the street from the lot lines of the subject property. Also, such notice shall be given to any other person or group (including civic or community organizations) who has made a written timely request for such notice. Any such notices should be mailed or delivered by a Borough representative to the last address known to the Borough. Such notice should be intended to be received at least 5 days prior to the hearing date.

112.B. Oaths and Subpoenas. The chair of the Board or Hearing Officer 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 reasonably needed by and requested by the parties.

112.C. Representation by Counsel. The parties shall have the right to be represented by legal counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on relevant issues.

112.D. Evidence and Record. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded. The Board or the Hearing Officer, as applicable, shall keep a record of the proceedings as required by State law.

112.E. Communications Outside of Hearings.

1. The Board shall not meet with, visit the site with or directly communicate specifically on the matter with the applicant or any officially protesting party or any such party's representative(s) in connection with any issue involved, except if opportunity is provided for the applicant and any officially protesting party to participate.
2. The Board shall not take notice of any communication, reports, staff memoranda, or other materials unless the parties are afforded an opportunity to examine and contest the material so noticed. This restriction shall not apply to advice from the Board's solicitor.

112.F. Advisory Reviews. The Zoning Hearing Board may request that the Planning Commission or Borough Engineer provide an advisory review on any matter before the Board. Such action may involve a continuation of the hearing to another date to allow a representative of the Planning Commission or the Borough Engineer to testify.

112.G. Initiation of Hearings. A hearing required under this Ordinance shall be initiated within 60 days of the date of an applicant's request for a hearing, unless the applicant has agreed in writing to an extension of time. A request for a hearing by an applicant shall not be accepted prior to submission of a duly filed application.

112.H. Decision/Findings.

1. The Board shall render a written decision or make written findings (when no decision is called for) on each application within 45 days after the last hearing on that application before the Board, unless the applicant has agreed in writing to an extension of time.
2. Where the application is contested or denied, the decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons for such conclusions.
3. Any denial based on provisions of the PA. Municipalities Planning Code or of this Ordinance shall contain a reference to the principal provision relied upon.
4. An approval or decision by the Zoning Hearing Board shall run with the property, and may apply to a subsequent owner or leasee of the property, provided such owner or leasee complies with: a) the applicant that was submitted previously, b) any conditions of approval and c) any time limits regarding such approval or decision by the Board.

112.I. Notice of Decision. A copy of the final decision or a copy of the findings (when no decision is called for), shall be personally delivered or mailed to the applicant or his/her representative or his/her last known address not later than the time limit established by Section 907 of the PA. Municipalities Planning Code.

113. **APPEALS.**

113.A. In General. All appeals of this Ordinance or any action of the Borough Council, the Zoning Officer or the Board under this Ordinance shall conform with Article X-A of the PA. Municipalities Planning Code.

113.B. Procedural Defects in Enactment. Allegations that this Ordinance or any amendment was enacted in a procedural defective manner shall be appealed directly to the court and be filed not later than 30 days from the intended effective date of the Ordinance or amendment.

113.C. To the Zoning Hearing Board. Appeals to the Board shall comply with Section 112 of this Ordinance.

114. **PUBLIC UTILITY EXEMPTIONS.** See Section 619 of the PA. Municipalities Planning Code.

115. **BOROUGH AND MUNICIPAL AUTHORITY EXEMPTION.** The minimum lot area and minimum lot width requirements of this Ordinance shall not apply to uses or structures owned by Mercersburg Borough or by a municipal authority created solely by Mercersburg Borough, for uses and structures that are intended for a legitimate governmental, recycling, public utility or public health and safety purpose.

116. **SITE PLAN REVIEW PROCEDURES FOR CERTAIN USES.**

116.A. When Site Plan Required. A site plan review by the Planning Commission and Borough Council is required for any of the following uses if the physical layout of the use will not be approved as: a) a subdivision or b) a land development.

1. Any expansion of more than 2,000 square feet in the floor area of a non-residential building.
2. Any new or expansion of a paved area of greater than 5,000 square feet.
3. Conversion of a non-residential principal building to what the Zoning Officer determines to be a clearly distinctly different non-residential use.

4. Any construction of a new non-residential principal building(s) that is not regulated under the "land development" definition in the Borough Subdivision and Land Development Ordinance.

116.B. Site Plan Procedures. The following procedures shall be followed for any use required to be reviewed under this Section:

1. Submission. 7 complete copies of any required site plan shall be submitted to the Borough. The Zoning Officer shall refuse to accept an application if it does not contain sufficient information to determine compliance with this Ordinance. A minimum of 1 copy shall be retained in Borough files. The Site Plan shall include the information listed in Section 117. The Zoning Officer should seek a review by the Borough Engineer if engineering matters are involved.
2. Time. The Planning Commission and Borough Council shall be given an opportunity to review the site plan and provide any advisory comments in writing to the Zoning Officer within the time limit stated or in part "3." below.
3. The Zoning Officer shall review the site plan and determine its compliance or noncompliance with this Ordinance, based upon his/her review and any comments of the Borough Council and Planning Commission. For a permitted by right use, the Zoning Officer should make such determination within 90 days after the first scheduled Planning Commission regular meeting after the receipt of a complete site plan submission, unless the applicant grants a written time extension.

B. Compliance With Approved Plan - See Section 107.G.

117. **SUBMISSION REQUIREMENTS FOR SITE PLAN REVIEW.** Where a site plan is required by Section 116, the submittal shall include all of the same information as would be required for a preliminary plan under the Borough Subdivision and Land Development Ordinance.

118. **SPECIAL EXCEPTION USE PROCESS.**

118.A. Purpose. The Special Exception process is designed to allow careful review of uses that have some potential of conflicts with adjacent uses or areas.

118.B. Special Exception Procedure.

1. All applicants for a special exception use shall submit 5 sets of Site Plans for the proposed use to the Secretary to the Zoning Hearing Board together with a written application. The Zoning Officer may waive the site plan requirement for home occupations that are not intense and other uses not involving new buildings nor additional off-street parking. Photographs of the existing site or buildings may also be requested to be presented by the applicant.
2. All Site Plans shall contain the information required in Section 107.C. A minimum of 1 copy shall be retained in the Borough files.
3. The Zoning Officer should, prior to the next Zoning Hearing Board meeting where the application will be discussed, review the Plan to determine compliance with this Ordinance and report these findings to the Zoning Hearing Board. The Board may request an advisory review by the Planning Commission or the Borough Engineer.

4. The Board shall hear and decide such request for a special exception use under the procedures of Article I and the PA. Municipalities Planning Code. The Board shall schedule the first hearing within 60 days of submittal of a proper application, unless granted a written extension by the applicant. The Board shall issue a decision within 45 days after the conclusion of the final hearing on the matter.
5. The decision of the Board shall be in writing and shall be communicated to the applicant or to his/her representative in accordance with Article I.
6. A site plan review by the Planning Commission and the Borough Council may also be required for certain uses. See Section 116.

118.C. Approval of Special Exception Uses. The Zoning Hearing Board shall approve any proposed special exception use if the Board finds adequate evidence that any proposed use will meet:

1. Any specific standards for the proposed use listed in Section 202.
2. Other applicable sections of this Ordinance.
3. Generally be capable of meeting applicable sections of the Subdivision and Land Development Ordinance, other than engineering details that will be considered at the subdivision and land development approval or building permit stage.
4. Comply with all of the following standards:
 - a. Other Laws. Will not clearly be in conflict with other Borough Ordinances or State or Federal laws or regulations known to the Borough.
 - b. Traffic. Will not result in or significantly add to a significant traffic hazard or significant traffic congestion.
 - c. Safety. Will not create a significant public safety hazard, including fire, toxic or explosive hazards.
 - d. Storm Water Management. Will follow adequate, professionally accepted engineering methods to manage storm water. Stormwater shall not be a criteria of a decision under this Ordinance if the application clearly would be subject to a separate engineering review and an approval of storm water management by Borough Council under the Subdivision and Land Development Ordinance.
 - e. Neighborhood. Will not significantly negatively affect the desirable character of an existing residential neighborhood.
 - f. Site Planning. Will involve adequate site design methods, including plant screening and setbacks as needed to avoid significant negative impacts on adjacent uses.
 - g. Performance Standards. Will not have a serious threat of inability to comply with the performance standards of this Ordinance, as stated in Article V.

118.D. Conditions. See Section 111.E.4.

119. LIABILITY.

119.A. Neither the approval nor the granting of any review, issuance of permit or approval related to construction, activity within the floodplain, site plan review, wetland review, subdivision or land development approval, erosion control, storm water runoff, activity on steep slopes or any other review or permit of this Ordinance, by an officer, employee, consultant or agency of the Borough, shall constitute a representation, guarantee or warranty of any kind by the Borough, or its employees, officials, consultants or agencies, of the practicality or safety of any structure, use or subdivision, and shall create no liability upon, nor a cause of action against such public body, official, consultant nor employee for any damage that may result pursuant thereto.

119.B. If the Zoning Officer mistakenly authorizes activity or issues a Permit under this Ordinance, the Borough shall not be liable for any later lawful withdrawal of such Permit or approval for valid cause shown, except as may be otherwise provided under State law.

ARTICLE II

DEFINITIONS;

ADDITIONAL REQUIREMENTS FOR SPECIFIC USES

201. **GENERAL INTERPRETATION.** For the purposes of this Ordinance, words and terms used herein shall be interpreted as follows:
- A. Words in the present tense shall include the future tense.
 - B. "Used" or "occupied" as applied to any land or building include the words "intended, arranged, or designed to be used or occupied".
 - C. "Should" means that it is strongly encouraged but is not mandatory. "Shall" is always mandatory.
 - D. "Sale" shall also include rental.
 - E. The singular shall include the plural and vice-versa. The masculine gender shall include the feminine and neuter, and vice-versa.
 - F. **If a word is not defined in this Ordinance, but is defined in the Borough Subdivision and Land Development Ordinance, as amended, the definition in that Ordinance shall apply.** If a word is defined in both this Ordinance and another Borough ordinance, each definition shall apply to the provisions of each applicable ordinance.
 - G. Any word or term not defined in this Ordinance or in the Borough Subdivision and Land Development Ordinance, as amended, shall be used with the meaning of standard usage within the context of the Section of this Ordinance within which the word is used.
 - H. The words "such as", "includes", "including" and "specifically" shall provide examples. These examples shall not, by themselves, limit a provision to the examples specifically mentioned if other examples would otherwise comply with the provision.
202. **TERMS DEFINED.** When used in this Ordinance, the following words, terms and phrases shall have the following meanings, unless expressly stated otherwise or unless the context clearly indicates otherwise:

Abut.

Definition: Areas of contiguous lots that share a common lot line, excluding any lot that is entirely separated by a street or a perennial waterway. See definition of "adjacent."

Accessory Structure.

Definition: A structure, such as a private garage or private swimming pool, serving a purpose customarily incidental and subordinate to the use of the principal building and located on the same lot as the principal building. An accessory building is a type of accessory structure that also meets the definition of a "building."

Use Standards:

- a. The accessory setback requirements of the applicable district shall apply to every accessory building, structure or use unless a standard that is clearly meant to be more restrictive or less restrictive is specifically stated in this Article for a particular accessory use. See also provisions for "Essential Services" in this Section.
- b. Accessory buildings on a lot with a lot area of 1 acre or less in a residential district shall meet the following requirements:
 - 1) Maximum total floor area of all accessory buildings shall be 1,000 square feet.
 - 2) Maximum of 2 accessory buildings per lot.
- c. Maximum height - See Section 308.
- d. The following accessory uses are permitted by right as accessory uses to a lawful principal use in all districts, within the requirements of this Ordinance:
 1. Air Conditioning Equipment, other than central equipment for a commercial or industrial use
 2. Crop Storage as an Accessory Use to Crop Farming
 3. Day Care Center as an accessory use, within the limits on number of children in Section 403*
 4. Flag Pole
 5. Garage, Household
 6. Indoor Storage that is customarily accessory to a permitted use
 7. Loading, Off-Street, only to serve a use that is permitted in that district
 8. Parking, Off-Street, only to serve a use that is permitted in that district
 9. Recreational Facilities limited to use by employees of a lot or a development and their occasional guests
 10. Recreational Facilities limited to use by residents of a development and their occasional invited guests
 11. Signs, as permitted by Article VII
 12. Solar Energy System
 13. Tennis/Racquetball/Volleyball Court
 14. Windmill
 15. Such other accessory use or structure that the applicant proves to the satisfaction of the Zoning Officer is clearly customary and incidental to a lawful principal use.
- e. Permitted Accessory Uses to Non-Residential Uses. The following are permitted by right accessory uses only to a lawful use in a commercial, industrial or academic district, provided that all requirements of this Ordinance are met:
 1. Amusement machines, coin or token operated, maximum of 4 machines as an accessory use
 2. Food, beverage and toy machines, coin operated
 3. Newspaper sales machines, coin operated
 4. Telephones, coin operated
 5. Storage of fuels for on-site use or to fuel company vehicles
 6. The following accessory uses, provided that the use is clearly limited to employees, patients, residents and families of employees of the use:
 - a) Cafeteria without drive-thru service and without exterior signs,
 - b) Day care center,
 - c) Noncommercial recreational facilities, or
 - d) Meeting facilities.
 7. Recycling Collection Center as an accessory use

Accessory Use. Definition: A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

Acre. Definition: 43,560 square feet.

Adjacent. Definition: Includes contiguous lots that share a common lot line or that are separated only by a street or waterway. See also definition of "abut."

Adult Bookstore.

Definition: A use with a significant portion of the market value of or total number of items for sale or rent being books, films, magazines, video tapes, coin- or token-operated films or videotapes, novelties, items, paraphernalia or other periodicals which are distinguished or characterized by a clear emphasis on matter depicting, describing, displaying or relating to uncovered male or female genitals or "specified sexual activities" (see definition). This shall include but not be limited to materials that would be illegal to sell to persons under age 18 under State law.

Use Standards: The standards for Adult Use shall apply.

Adult Day Care Center.

Definition: A use providing supervised care and assistance primarily to persons who are over age 60, mentally retarded and/or physically handicapped who need such daily assistance because of their limited physical abilities, Alzheimers disease or mental retardation.

Use Standards:

This use shall not include persons who need oversight because of behavior that is criminal or violent. This use may involve occasional overnight stays, but shall not primarily be a residential use. The use shall involve typical stays of less than a total of 60 hours per week per person. This use shall not include a "Treatment Center" unless such use is permitted in the applicable district and the requirements of that use are also met. The use shall be fully licensed by the State, if applicable. A maximum of 4 such persons may be cared for as an accessory use to the dwelling unit. Any greater numbers of persons shall be regulated as a principal use.

Adult Live Entertainment Use or Facility.

Definition: A use including live entertainment involving persons (which may include, but is not limited to, waiters, waitresses, dancers, clerks, bartenders, contractors or others) displaying uncovered male or female genitals or nude or nearly nude (such as wearing of "pasties) female breasts or engaging in simulated or actual "specified sexual activities" related to some form of monetary compensation paid to a person, company or organization operating the use or to persons involved in such activity.

Use Standards: The standards for Adult Use shall apply.

Adult Movie Theater.

Definition: A use involving the presentation typically to 3 or more persons at one time of motion pictures, video tapes or similarly reproduced images distinguished or characterized by an emphasis on depiction of "specified sexual activities" for observation by patrons therein and that is related to some form of monetary compensation by the persons viewing such matter. A theater that only shows such films or video tapes for a maximum of 14 days in any calendar year shall not be considered an "adult movie theater."

Use Standards: The standards for Adult Use shall apply.

Adult Use.

Definition: This shall include only the following: Adult Bookstore, Adult Movie Theater, Massage Parlor or Adult Live Entertainment Use.

Use Standards:

- a. No such use shall be located within 500 lineal feet of the lot line of any primary or secondary school, place of worship, public park, day care center, child nursery, library, existing dwelling, or any site marked as a proposed future park location on any Borough Official Map.
- b. No such use shall be located within 1,500 lineal feet of any other existing or approved "adult use."
- c. A 30 feet buffer yard shall be provided, regardless of zoning district, along the side and rear lot lines in accordance with Section 802.C., but with plantings of an initial minimum height of 5 feet.
- d. No pornographic material, displays or words shall be placed in view of persons who are not inside of the establishment. Definite precautions shall be made to prohibit minors from entering the premises.
- e. No such use shall be used for any purpose that violates any Federal, State or Borough law. Any violation of this zoning requirement involving a serious criminal offense that the proprietor has continuing knowledge of and allows to occur shall be sufficient reason for the Borough to revoke Borough permits.
- f. See Section 709, Prohibited Signs.
- g. No such use shall be allowed in combination with the sale of alcoholic beverages.
- h. The use shall not include the sale or display of "obscene" materials, as defined by State law, as may be amended by applicable Court decisions.
- i. These uses are specifically prohibited in all Districts except where specifically permitted by Article III.
- j. A minimum lot area of 2 acres is required.
- k. For public health reasons, private or semi-private viewing booths of any kind are prohibited. This specifically includes, but is not limited to, booths for viewing adult movies or nude dancers. No room of any kind accessible to customers shall include less than 150 square feet, other than required restrooms.
- l. No use may include live actual or simulated sex acts or any sexual contact between entertainers or between entertainers and customers.
- m. Only "lawful" massages as defined by State court decisions shall be performed in a massage parlor.
- n. Except within a permitted Adult Live Entertainment Use, persons within any Adult Use shall wear non-transparent garments that cover their genitals and the female areola.
- o. The applicant shall provide a written affidavit stating that he/she has mailed or delivered a written notice of the proposed hearing date to all property-owners of record within 500 feet of the subject property at least 10 days prior to the hearing date.
- p. **Adult Use Owners and Managers.** The applicant shall submit a written list of all persons having an ownership interest of more than 1 percent in the business, including shareholders and partners of any corporation. The applicant shall also submit the name of the manager who is responsible to ensure that all Borough and State regulations are enforced on a day-to-day basis. Such manager shall be a person who resides within a 40 mile radius of the use. Such information shall include the person's business and home addresses and phone numbers and shall be a matter of public record. Such information shall be kept up-to-date. Failure to keep such information up-to-date shall be a violation of this Ordinance and be reason for suspension of Borough permits.

Alley. Definition: A public thoroughfare that: a) is identified as an "Alley" on the Borough's Official Street Map or b) is approved after the adoption of this Ordinance with a right-of-way width of less than 20 feet.

Apartment. See "dwelling types."

Applicant. Definition: The person(s), company, partnership, profit or non-profit corporation or trust responsible for a particular application for an approval or permit under this Ordinance, and his/her

heirs, successors and assigns.

Auditorium, Commercial. Definition: A commercial area or structure involving indoor or outdoor space for exhibits, meetings, live performances or sports events, but not a use that meets the definition of a movie theater, adult live entertainment use or standard or fast-food restaurant.

Auto, Boat and/or Mobile/Manufactured Home Sales. Definition: A building or area, other than a street, used for the outdoor or indoor display, sale or rental of one or more of the following in operable condition: motor vehicles, recreation vehicles, boat trailers, farm machinery, motorcycles, trucks, utility trailers, construction vehicles or boats, or transportable mobile/ manufactured homes in a livable condition. This use may include an auto repair garage as an accessory use provided that all requirements of such use are complied with. This use shall not include a mobile/ manufactured home park or a junkyard.

Auto Repair Garage.

Definition: A building and/or land where repairs, improvements and installation of parts and accessories for motor vehicles and/or boats are conducted that involves work that is more intense in character than work permitted under the definition of "auto service station." An auto repair garage shall include, but not be limited to, any use that involves any of the following work: major mechanical or body work, straightening of body parts, painting, welding or rebuilding of transmissions. Any use permitted as part of a "auto service station" is also permitted as part of an "auto repair garage." This use shall not include a use meeting the definition of a "truck stop."

Use Standards:

- a. All major repair, welding and paint work shall be performed within a building, with a fume collection and ventilation system that directs fumes away from any adjacent dwellings.
- b. An individual "junk vehicle" (as defined by Article II) shall not be stored within view of a public street or a dwelling for a total of more than 20 days. No junk vehicles shall be stored within 20 feet of an existing street right-of-way line. A maximum of 6 junk vehicles may be parked on a lot outside of an enclosed building at any one time.

Auto Service Station.

Definition: A building and/or land where gasoline is sold, and where no repairs are conducted, except work that may be conducted that is closely similar in character to the following: sale and installation of oil, lubricants, batteries and belts and similar accessories and safety and emission inspections. This use may include the sale of ready-to-eat food for consumption off the lot and of common household products as a clearly accessory use. An accessory use providing only motor fuel to vehicles operated by that business shall not be considered to be a gasoline service station. This use shall not include a use meeting the definition of a "truck stop."

Use Standards:

- a. Fuel pumps shall be at least 25 feet from the existing street right-of-way.

Basement.

Definition: An enclosed floor area partly or wholly underground, other than a building which is completely underground. A basement shall be considered a "story" if:

- a. the majority of the basement has a clearance from floor to ceiling of 6 feet or greater and
- b. the roof of the basement is an average of 4 or more feet above the finished grade of the front side of the building that faces onto a street.

Bed and Breakfast Use.

Definition: The use of a pre-existing single family detached dwelling, single family semi-detached ("twin") dwelling or townhouse dwelling and/or accessory structure of such dwelling for the rental of overnight sleeping accommodations and bathroom access for clearly temporary visitors to the area.

Use Standards:

- a. In a residential district, the use shall include a maximum of 7 rental units or rental units occupying a maximum of 50 percent of the pre-existing habitable building floor, whichever is more restrictive.
- b. A maximum of 3 adults may occupy one rental unit.
- c. A minimum of 1 off-street parking space shall be provided per rental unit, in addition to 1 space for the operators of the use. The location of the off-street parking spaces shall be shown on a site plan.
- d. For a use within a residential district that would involve 5 or more off-street parking spaces:
 - 1) the proposed parking location and site plan shall be offered to the Planning Commission for an advisory review at one legally advertised meeting;
 - 2) a maximum of 5 off-street parking spaces shall be located within the required front yard of the lot;
 - 3) if 4 or more off-street parking spaces are located within a side or rear yard abutting a public street or primarily residential lot, then such spaces shall be separated from such street or lot by primarily evergreen plants. Such plants shall be of such height and intensity to, at a minimum, prevent headlights from shining into any abutting or adjacent dwelling.
- e. Within a residential district, no exterior alterations shall occur to the principal building that would reduce its residential character, except for alterations needed for historic rehabilitation, fire safety and handicapped access.
- f. The use shall be operated by permanent residents of the lot, but is not required to be owned by residents of the lot.
- g. There shall not be separate cooking facilities in any guest room.
- h. In a residential district, the use shall be restricted to buildings that existed prior to January 1, 1960.
- i. The use shall not involve providing meals to non-guests, unless a restaurant is also permitted in the applicable district and the requirements of a restaurant are also met.
- j. The use shall not routinely involve renting sleeping accommodations to persons for periods totalling longer than 14 days in any month.

Board. Definition: The Zoning Hearing Board of the Borough of Mercersburg.

Boarding House.

Definition: A residential use in which: a) 2 or more individual rooms that do not meet the definition of a dwelling unit are rented for habitation by a total of 2 or more persons or b) a dwelling unit includes greater than the permitted maximum number of unrelated persons. A boarding house shall not include a use that meets the definition of: a hotel, dormitory, motel, life care center, personal care center, bed and breakfast use, group home or nursing home. A college fraternity or sorority house used as a residence shall be considered a type of boarding house. A boarding house may either involve or not involve the providing of meals to residents.

Use Standards:

- a. Each sleeping room shall be limited to a maximum of 2 adults, plus any children.
- b. Interior Space. A minimum of 200 square feet of heated, interior floor area per resident.
- c. Maximum number of residents: 20.
- d. See also standards for "personal care homes" which is a separate use.
- e. Rooms shall be rented for a minimum period of 5 consecutive days.

Borough. Definition: Mercersburg Borough, Franklin County, Pennsylvania.

Borough Council. Definition: The Borough Council of the Borough of Mercersburg.

Buffer. Definition: A strip of land that a) separates one use from another use or feature, and b) is not occupied by any building, parking, outdoor storage or any use other than open space or approved pedestrian pathways. A buffer yard may be a part of the minimum setback distance but land within an existing street right-of-way shall not be used to meet a buffer requirement. See standards in Section 802.C.

Building. Definition: Any structure having a permanent roof and intended for the shelter, work area, housing or enclosure of persons, animals, vehicles, equipment or materials and that has a total area under roof of greater than 50 cubic feet. "Building" is interpreted as including "or part thereof." See the separate definition of "structure". Any structure involving a permanent roof (such as a covered porch or a carport) that is attached to a principal building shall be considered to be part of that principal building.

Building Coverage. Definition: The percentage obtained by dividing: a) the maximum square feet of the horizontal area of all principal and accessory buildings and attached structures covered by a permanent roof on a lot by b) the total lot area of the lot upon which the buildings are located.

Building, Principal. Definition: A building used for the conduct of the principal use of a lot, and which is not an accessory building.

Building Length. Definition: The horizontal measurement between the two most distant portions, other than portions measured diagonally, of any 1 building or of attached buildings.

Building Line or Building Setback Line. Definition: See "Setback Line."

Building Width. Definition: The horizontal measurement between 2 structural walls of 1 building that are generally parallel, measured in one general direction that is most closely parallel to the required lot width. For a townhouse, this width shall be the width of each dwelling unit.

Bulk or Bulk Storage. Definition: Storage or processing beyond what is reasonably needed for customary use on-site and for customary use for fuel for vehicles based on-site. This specifically includes storage or processing of substances intended to be sold or re-sold for use off-site.

Bulk Recycling Center. Definition: A use involving the bulk commercial collection, separation and/or processing of types of waste materials found in the typical household for some productive reuse, but which does not involve the actual processing or recycling of hazardous or toxic substances, and which does not primarily involve the processing of non-recycled solid waste, unless the use also meets the applicable requirements for a solid waste transfer facility. This definition shall not include a "junkyard."

Cartway. Definition: The paved portion of a street designed for vehicular traffic and on-street parking, but not including the shoulder of the street.

Cemetery. Definition: Land or buildings used for the burial of deceased humans, but not animals. The internment or scattering of remains of properly cremated humans is not regulated by this ordinance.

Commercial Communications Antennae or Tower.

Definition: A structure, partially or wholly exterior to a building, used for transmitting or retransmitting electronic signals. Commercial communications towers include, but are not limited to, antenna used for transmitting commercial radio or television signals or cellular telephone communications, but shall not include a "household antenna."

Use Standards:

- a. If freestanding, shall be set back a minimum distance equal to half of its height from all lot lines and existing street right-of-way lines.
- b. Such freestanding antennae with a height greater than 60 feet above the natural ground level shall not be located in a residential district unless the applicant proves to the satisfaction of the Zoning Hearing Board that no other appropriate sites in other Districts are available within the Borough, especially space on existing towers.
- c. The base of a freestanding antennae shall be surrounded by a secure fence with a minimum height of 8 feet.
- d. Any freestanding antennae higher than 60 feet that is within 100 feet of a public street or dwelling shall be surrounded (except at the driveway crossing) by evergreen screening or preserved woods meeting the requirements of Section 802.C.

Commercial District. Definition: The TC1, PC and GC Zoning Districts.

Commercial Outdoor Recreation. Definition: A use that a) has a total building coverage of less than 15%, b) is used principally for active or passive recreation (such as a driving range) and c) is used for a profit-making purpose.

Commercial Use. Definition: Includes retail sales, offices, personal services, auto sales, auto repair garages and other uses of a similar nature. The sale of goods or services from a vehicle on a lot shall also be considered to be a commercial use.

Commission. Definition: The Planning Commission of the Borough of Mercersburg.

Community Center. Definition: A noncommercial use that exists solely to provide leisure and educational activities and programs to the general public or certain age groups. The use also may include the noncommercial preparation and/or provision of meals. This shall not include residential uses or a "treatment center."

Comprehensive Plan. Definition: The document entitled the Mercersburg Borough Comprehensive Plan, or any part thereof, adopted by the Borough Council, as amended.

Convenience Store. Definition: A use that primarily sells routine household goods, groceries and prepared ready-to-eat foods to the general public, but that is not primarily a restaurant, and that includes a building with a floor area of less than 4,000 square feet. This use may also include the accessory sale of gasoline, provided the requirements for an "auto service station" are also met.

County. Definition: The County of Franklin, Commonwealth of Pennsylvania.

Crop Farming. Definition: The cultivating, raising and harvesting of products of the soil and the storage of these products produced on the premises. The definition of crop farming shall also include orchards and Christmas tree farms, but shall not include animal husbandry, commercial forestry, riding academies or kennels. If a crop farming lot includes more than 15 acres, it may also include the keeping of up to 10 additional animals as a permitted accessory use, in addition to what is permitted under the "keeping of pets".

Cultural Center. Definition: A building and/or land open to the public which primarily contains exhibits of clearly artistic or cultural interest, such as a museum, library, art gallery or indoor nature study area. This shall not include uses that are primarily commercial in nature.

Curative Amendment. Definition: A proposed zoning amendment made to the Borough Council by any landowner who desires to challenge on substantive grounds the validity of an ordinance which prohibits or restricts the use or development of land in which he/she has an interest.

Day Care, Child.

Definition:

A use involving the supervised care of children under age 16 outside of the children's own home primarily for periods of less than 18 hours during the average day. This use may also include educational programs that are supplementary to State-required education, including a "nursery school." The following three types of day care are permitted without regulation by this Ordinance: 1) care of children by their own relatives, 2) care of children within a place of worship during regularly scheduled weekly religious services and 3) care of 1 to 3 children within any dwelling unit, in addition to children who are relatives of the care giver. See also the definition of "adult day care center."

a. Child Day Care Center, as an Accessory Use.

Definition: A type of "day care" use that provides care for 6 or fewer children at one time who are not relatives of the care giver.

Use Standards:

- 1) A maximum number of 6 children under age 15 who are not related to a permanent resident of the dwelling may be cared for in any dwelling unit.
- 2) The dwelling shall retain a residential appearance with no change to the exterior of the dwelling to accommodate the use, other than cosmetic improvements.
- 3) Any day care center involving 7 or more children shall be considered a principal use and meet the standards for such use, if permitted.
- 4) The use shall be actively operated by a permanent resident of the dwelling.

b. Child Day Care Center, as a Principal Use.

Definition: A type of "day care" use that provides care for 7 or more children at any one time who are not relatives of the primary operator.

Use Standards:

- 1) See also day care center as an accessory use, as described above.
- 2) Shall include adequate measures to ensure the safety of children from traffic or other nearby hazards. This shall include a secure fence around any outdoor areas abutting streets that are routinely used for outdoor play.
- 3) In residential districts, any permitted day care center shall maintain an exterior appearance that resembles and is compatible with any existing dwellings in the neighborhood.
- 4) A day care center may occur in a building that also includes permitted or non-conforming dwelling units.
- 5) See also the standards for a "Place of Worship" in this Section, which allows a day care center as an accessory use. A day care center is also permitted as an accessory use of a business or institution, provided that care is only provided for relatives of employees.

Density. Definition: The total number of dwelling units proposed on a lot divided by the "lot area", unless otherwise stated.

D.E.R. (or "DER"). Definition: Shall mean the Pennsylvania Department of Environmental Resources, or its successor, and its relevant subparts.

Detached Building. Definition: A building that is surrounded on all sides by open yards and that is not attached to any other building.

Distribution. Definition: The processing of materials so as to sort out which finished goods are to be transported to different locations, and the loading and unloading of such goods. This use usually involves inventory control, material handling, order administration and packaging. This term shall not include a "trucking company terminal."

District (or Zoning District). Definition: A land area within the Borough within which certain uniform regulations and requirements apply under the provisions of this Ordinance.

Dormitory. Definition: A principal or accessory building that includes residential areas occupied exclusively by faculty or students of an accredited college or university or State licensed teaching hospital or accredited public or private primary or secondary school.

Driveway. Definition: A privately owned, constructed, and maintained vehicular access from a street to dwelling unit(s) or business or institutional use(s).

Dwelling.

Definition: A building used as non-transient living quarters, but not including a boarding house, hotel, motel, hospital, nursing home or dormitory. See also definition of "Dwelling Unit."

a. Conversion Apartment.

Definition: A new dwelling unit created within an existing building and where permitted by Article III and meeting the floor area requirements of a dwelling unit.

Use Standards:

- 1) The building shall maintain the appearance of a single family detached dwelling, with a single front entrance. Additional entrances may be placed on the side or rear of the building, and/or the two dwelling units shall share a single entrance.
- 2) Separate cooking, sleeping and sanitary facilities shall be provided for each dwelling unit.
- 3) One of the dwelling units shall be owner-occupied or occupied by a "relative" of the owner for a minimum of 24 months following the conversion.
- 4) The dwelling as it pre-exists shall have a minimum floor area of 1,600 square feet. The principal dwelling unit shall retain a minimum floor area of 800 square feet, and the accessory dwelling unit shall have a minimum floor area meeting the floor area requirements stated below under "dwelling units."
- 5) The lot may contain a maximum of 2 dwelling units, unless specifically stated otherwise.

b. Apartments.

Definition: Three or more dwelling units within a building that are separated by only horizontal floors or by a combination of horizontal floors and vertical walls (see definition of townhouses). The individual dwelling units may be leased or sold for condominium ownership.

Use Standards:

- 1) Building Separation - Each principal building shall be separated by a minimum of 20 feet from any other principal building on the same lot.
- 2) Additional Requirements: For Construction of Private Streets - See Section 801. For preservation of natural buffers - See Section 802.C. For dumpster screening - See Section 513.

- 3) **Paved Area Setback** - All off-street parking spaces, except spaces on driveways immediately in front of carport or garage entrance, shall be set back a minimum of 10 feet from any dwelling.
 - 4) **Common Open Space** - If an apartment development includes more than 20 dwelling units, then a minimum of 8 percent of the total lot area shall be set aside for recreation use of the residents and/or the public.
 - 5) **Utilities** - Both public sewage and public water service shall be provided to each dwelling unit. All utilities within the development, including cable television where available, shall be placed underground, unless the applicant proves to the satisfaction of the zoning officer that underground placement is impractical.
- c. **Single Family Detached Dwelling.** Definition: One dwelling unit in 1 building accommodating only 1 family and having open areas on all sides.

1) **Mobile/Manufactured Home.**

Definition: A type of single family detached dwelling that meets all of the following requirements: a) was built to be transportable, b) is designed for permanent occupancy, c) includes one substantial piece or two substantial pieces (in addition to minor added structures and components) that are designed to be joined into one integral unit, d) arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, e) is constructed so that it may be used with or without a permanent foundation, f) is not a "Recreation Vehicle," and g) includes a minimum of 300 square feet of interior floor space. The terms "mobile home" and "manufactured home" have the same meaning for the purposes of this Ordinance. See the different definition for "Sectional Home."

Use Standards:

- a) **Construction.** Shall be constructed in accordance with the Safety and Construction Standards of the U.S. Department of Housing and Urban Development. These standards supersede the BOCA Code for the actual construction of the unit itself.
- b) Shall have a site graded to provide a level, stable and well-drained area.
- c) Shall have the hitch mechanism removed. The axle and wheels shall be removed and/or made not visible.
- d) **Foundation.** Shall be securely attached to the ground in such as way as to prevent overturning, shifting or uneven settling of the home. This shall involve the following method, unless the applicant proves to the satisfaction of the Zoning Officer that another method will be used that a) is recommended by the manufacturer of the home or by the manufacturing housing industry or b) is specified by the BOCA codes:
 1. The foundation system shall consist of 10 inch diameter concrete piers, concrete footing perpendicular to the main longitudinal frame, or equivalent and shall be installed from ground level to below the frost line (36 inches minimum). This foundation system shall be placed on 8 feet centers (or another distance specified by the manufacturer) along each of the two main longitudinal frames for each section of the home with no more than 3 feet overhang at each end of the section.
 2. One-half inch diameter by 12 inch long eyebolts, u-shaped bars or equivalent metal bars shall be cast in place at each corner and at two midpoints in the concrete piers, concrete footing, slab or equivalent foundation. Concrete blocks shall be used to support the home on the foundation system and wood shims may be used for final leveling. The concrete support blocks shall not be wider than the support foundation.
 3. The mobile/manufactured home shall be securely anchored or tied down with cable and turn buckles or equivalent connecting the frame to the cast in place eyebolts on at least 4 corners and two midpoints. The tiedown shall also be in accordance with the manufacturers' recommendations furnished with each home.
 4. Mobile homes shall not be placed more than 4 feet above the supporting ground area.

- e) Skirting. Shall be enclosed from the bottom of the home to the ground or stand using industry-approved skirting material compatible with the home.
 - f) Shall have a pitched instead of a flat roof.
 - g) Should be located with the longest side facing the public street.
- e. Single Family Semi-Detached Dwelling. Definition: One dwelling unit accommodating 1 family that is attached to only 1 additional dwelling unit. This use is commonly known as one-half of a duplex or one-half of a "twin home." Each unit may or may not be on a separate lot.
- f. Townhouse.

Definition: One dwelling unit that is attached to 2 or more dwelling units, and with each dwelling unit being completely separated from and attached to each other by unpierced vertical fire resistant walls. Townhouses are also commonly referred to as "row houses" or "single family attached dwellings."

Use Standards:

- 1) Each dwelling unit shall have its own outside access. Side yards shall be adjacent to each end unit.
- 2) Building Separation - Each principal building shall be separated by a minimum of 20 feet from any other principal building on the same lot.
- 3) Minimum Private Area.
 - a) For each townhouse that is not located on a fee simple lot of 1,000 square feet or more, there shall be a yard, balcony, patio or other outdoor area other than a driveway immediately adjacent to the front, back or side of each dwelling of not less than 200 square feet for the exclusive use of the occupants of that dwelling.
 - b) Design measures shall be used to seek an appropriate level of privacy in any rear yards. Such measurements might include landscaped screening, compatible fencing or earth berming. The intent is to avoid the placement of inconsistent fencing by individual lot.
- 4) Additional Requirements: For Construction of Private Streets - See Section 801. For preservation of natural buffers - See Section 802.C. For dumpster screening - See Section 513.
- 5) Paved Area Setback - All off-street parking spaces, except spaces on driveways immediately in front of a carport or garage entrance, shall be set back a minimum of 10 feet from any dwelling.
- 6) Common Open Space - If a townhouse development includes more than 20 dwelling units, then a minimum of 8 percent of the total lot area shall be set aside for recreation use of the residents and/or the public.
- 7) Utilities - Both public sewage and public water service shall be provided to each dwelling unit. All utilities within the development, including cable television, shall be placed underground, unless the applicant proves to the satisfaction of the zoning officer that underground placement is impractical.
- 8) Width - Each townhouse shall have a minimum building width of 18 feet, except that the minimum width shall be 22 feet for any townhouse that will have garage doors for 2 or more vehicles entering from the front of the building.
- 9) Lots - Townhouses are not required to be divided into individual lots, but instead may have 1 ownership and be rented, or may have condominium ownership of each dwelling with common ownership of yards and parking areas.

Dwelling Unit

Definition: A single habitable living unit occupied by only one "family." See definition of "family."

Use Standards:

- a. Each dwelling unit shall have: a) its own toilet, bath or shower, sink, sleeping and cooking facilities and b) separate access to the outside or to a common hallway or balcony that connects to outside access at ground level. No dwelling unit shall include a separate living area that is completely separated by interior walls so as to prevent interior access from the remainder of the living area.
- b. Each dwelling unit shall include a minimum of 600 square feet of habitable, indoor, heated floor area, except such minimum floor area may be 450 square feet in either of the following cases:
 - 1) for dwelling units that are permanently limited to either persons over age 60 or the physically handicapped, or
 - 2) if the dwelling unit is an efficiency or a 1 bedroom apartment.

Easement. Definition: Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of the owner's property.

Emergency Services Station. Definition: A building for the housing of fire, emergency medical or police equipment and for related activities. A Membership Club may be included if it is a permitted use in that District. This may include housing for emergency personnel while on-call.

Employees. Definition: The highest number of workers (including both part-time and full-time, both compensated and volunteer and both employees and contractors) present on a lot at any one time, other than clearly temporary and occasional persons working on physical improvements to the site.

Essential Services.

Definition: Utility or municipal uses that are necessary for the preservation of the public health and safety and that are routine, customary and appropriate to the character of the area in which they are to be located. Essential services shall not include a central sewage treatment plant, a solid waste disposal area or facility, commercial communications towers, a power generating station, septic or sludge disposal, offices, storage of trucks or equipment or bulk storage of materials.

Use Standards:

- a. Essential Services - Not Required to Meet Lot Requirements. The following are "Essential Services" that are permitted by right as a principal or as an accessory use in all districts. The following essential services are not required to meet the accessory or principal setback, lot area or other lot requirements of this Ordinance, except that any newly created lot shall meet the applicable lot requirements if future building or subdivision of the lot would reasonably be possible for a different use.
 - 1) Oil pipelines and natural gas transmission and distribution lines and accessory compressing stations.
 - 2) Electrical transformers as an accessory use to dwellings.
 - 3) Electrical, telephone and street light poles.
 - 4) Electrical transmission and distribution lines and meters.
 - 5) Wells, water transmission lines, cisterns and meters.
 - 6) Sewage pumping stations, but not including a central sewage treatment plant, provided that such use be setback a minimum of 60 feet from any dwelling or any residential lot line.
 - 7) Cable television and telephone lines.
 - 8) Storm water pipes, outfalls, detention basins, swales and catch basins.
 - 9) Shelters and benches for buses that transport school children or that are owned, operated or financed by a public transit authority, and that do not include off-premise signs.
 - 10) U.S. mailboxes.
 - 11) Boxes for receiving individual newspapers.
 - 12) Railroad lines.
 - 13) Fire hydrants and emergency callboxes.
 - 14) Engineered retaining walls that are clearly necessary to hold back slopes.

- 15) Sidewalks and curbs.
- 16) Residential driveways.
- 17) Ramps primarily intended for handicapped access.
- 18) Steps leading into the entrance of a building.
- 19) Construction. Temporary storage of vehicles, roll-off dumpsters, materials and/or construction office trailers that are clearly needed and being actively used for current construction or renovation work on the same or an adjacent lot or within the same subdivision, provided such items are removed from the site within 20 days of completion of the portion of the construction that they relate to. Construction vehicles and materials shall only be stored outdoors on a lot while the related Borough construction permit is actively still in effect.

b. Essential Services - Required to Meet Lot Requirements. The following are permitted by right essential services in all Districts and are required (except within Section 106) to meet all of the applicable requirements of this Ordinance:

- 1) Electrical substations and bulk industrial or commercial transformers that are not an accessory use to dwellings. Electric substations involving outdoor structures at least 10 feet in height shall be required to provide evergreen screening within the requirements of Section 802 on sides that are within 200 feet of a "residential lot line" or an arterial street.
- 2) Water towers (see height exemption in Section 308), water filtration plants and pressure stations.
- 3) Emergency and other electrical generators and compressors.
- 4) Solid waste bulk dumpsters and bulk compactors.
- 5) Telephone switching stations.
- 6) Industrial or commercial central air conditioning equipment.
- 7) Central sewage treatment facility meeting all PA, DER and Borough regulations

Exercise Club. Definition: A facility that offers indoor or outdoor recreational facilities, such as the following: weight rooms, exercise equipment, non-household pool and racquetball courts.

Family. Definition: One or more persons living in a single dwelling unit and functioning as a common household unit. A family shall not include more than 4 persons who are not related to each other by blood, marriage, adoption or formal foster relationship.

Fence.

Definition: A man-made barrier placed or arranged as a line of demarcation, an enclosure or a visual barrier. Man-made barriers constructed principally of masonry, concrete, cinder block or similar materials shall be considered a "wall." The term "wall" does not include engineered retaining walls, which are permitted uses as needed in all Districts. The terms "fence" and "wall" do not include hedges, trees or shrubs.

Use Standards:

- a. Fences and walls are permitted by right in all Districts. Any fence or wall shall be durably constructed and well-maintained. Fences that have deteriorated shall be replaced or removed. A zoning permit is required for all fences and walls other than seasonal temporary snow fences and temporary fences around active construction sites. Such temporary fences may have a maximum height of 8 feet in a residential district.
- b. Sight Distance, Stormwater and Easements. No fence, wall or hedge shall obstruct the sight distance requirements of the Subdivision and Land Development Ordinance, nor obstruct safe sight distance within an alley. No fence or wall shall obstruct the flow of stormwater, except as part of a Borough-approved stormwater system. No fence, wall or continuous hedge shall be constructed within an easement in such a way that it would prevent use of the easement for its intended

purpose.

- c. **Setbacks.** No fence or wall shall be built within the existing right-of-way of a street. A fence or wall may be constructed on a lot line, except:
- 1) a fence or wall of a non-residential use shall be setback a minimum of 3 feet from any abutting lot line of a "residential lot line" and
 - 2) no fence or wall shall be located within the paved area setback required under Section 603.
- d. **Walls -**
- 1) Engineered retaining walls necessary to hold back slopes are exempted from setback regulations and the regulations of this section, and are permitted by right as needed in all Districts.

Financial Institution. Definition: An establishment primarily involved with loans and monetary, not material, transactions and that has routine interactions with the public.

Floodplain (100-Year). See definitions in Section 515 of this Ordinance entitled "Floodplain Regulations."

Floor Area or Total Floor Area. Definition: The gross horizontal floor space within a building(s) measured from the exterior faces of exterior walls or from the centerlines of walls separating buildings. Floor area shall specifically include, but not be limited to: a) fully enclosed porches and b) basement or cellar or attic space that is potentially habitable and has a minimum head clearance of at least 6.5 feet. Floor area specifically shall not include unenclosed porches, decks or breezeways.

Garage, Private or Household.

Definition: An enclosed building for the storage of 1 or more motor vehicles.

Use Standards:

- a. No business, occupation or service shall be conducted in a private garage that is accessory to a dwelling, except as may be allowed as a home occupation. The rental to a person who does not reside on the property of storage space that would accommodate 4 or more cars or for commercial purposes shall be regulated as a business use.

Garage Sale.

Definition: The accessory use of any lot for the occasional sale or auction of only common household goods and furniture and items of a closely similar character.

Use Standards:

- a. A garage sale shall neither include wholesale sales nor sale of new merchandise of a type typically found in retail stores.
- b. No garage sales shall be held on a lot during more than 4 days total in any 3 consecutive months.
- c. The use shall be clearly accessory to the principal use.

Glare. Definition: A sensation of brightness within the visual field which causes annoyance, discomfort or loss in visual performance, visibility and/or ability to focus.

Group Home.

Definition: The use of any lawful dwelling unit which meets all of the following criteria:

- a. Involves persons functioning as a common household.

- b. Involves providing non-routine support services and oversight to persons who need such assistance to avoid being placed within an institution, because of physical disability, old age, mental retardation or other "handicap"* as defined by applicable Federal law.
 - c. Does not meet the definition of a "Treatment Center."
 - d. Does not involve the housing or treatment of persons who could reasonably be considered a threat to the physical safety of others.
- * NOTE: As of 1992, the Federal Fair Housing Act defined "handicap" as follows: "1) a physical or mental impairment which substantially limits one or more of such person's major life activities, 2) a record of having such an impairment, or 3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance as defined in Section 802 of Title 21."

Use Standards:

- a. Supervision. There shall be adequate supervision as needed by an adequate number of person(s) trained in the field for which the group home is intended.
- b. Certification. The use shall be licensed or certified under an applicable State, County or Federal program for group housing, if applicable.
- c. Registration. The group home shall register its location, general type of treatment/care, maximum number of residents and sponsoring agency with the Borough. Such information shall be available for public review upon request.
- d. The use shall not meet the definition in Article II of a "treatment center."
- e. Appearance. If the group home is within a residential district, the building shall be maintained and/or constructed to ensure that it is closely similar in appearance, condition and character to the other residential structures in the area.
- f. The following maximum number of persons shall reside in a group home, including the maximum number of employees and care providers routinely in the group home at any point in time:
 - 1) Single Family Detached Dwelling with minimum lot area of 12,000 square feet and minimum building setbacks from all "residential lot lines" of 10 feet: 6 total persons.
 - 2) Single Family Detached Dwelling with minimum lot area of 25,000 square feet and minimum building setbacks from all "residential lot lines" of 20 feet: 8 total persons.
 - 3) Any other lawful dwelling unit: 5 total persons.

Height, Definition: The vertical distance measured from the average elevation of the average proposed ground level along the front of the building to the highest point of a structure. For a building with a roof, such height shall be measured to the highest point of the structural roof. See Article III, Section 308. For height of signs, see Article VII entitled "Signs."

Home Occupation

Definition: A routine, accessory and customary non-residential use conducted within or administered from a portion of a dwelling or its permitted accessory building that:

- a. is conducted primarily by a permanent resident of the dwelling;
- b. only include uses that are clearly incidental and secondary to the principal residential use;
- c. neither includes any retail or wholesale sales on the premises (other than over the phone and through the mail or sale of items such as crafts that were clearly manufactured on the premises) nor any industrial use (other than custom crafts and sewing);

Use Standards:

- a. The burden of proof shall be upon the applicant to prove that the standards of this Section will be met, especially regarding possible nuisances and truck traffic.
- b. The total amount of floor area of all buildings used for a home occupation shall not be greater than 25% of the total floor area of the principal dwelling unit.
- c. There shall be no outdoors operations or outdoors storage of materials, products or equipment.

- d. **Truck Traffic** - The use shall not require the parking or servicing by a vehicle with more than 1 ton loading capacity, except for deliveries a maximum of two times per day. The use shall not involve the parking of more than 2 trucks of any type on the lot or on adjacent streets at any period of time. The use shall not need servicing by, deliveries by or parking of tractor-trailer trucks.
- e. Uses permitted as a home occupation include but are not limited to: art studio, office, custom sewing, tax preparation or musical instruction.
- f. The following uses shall not be permitted as a home occupation: veterinarian office, stable, kennel, funeral home, retail store, restaurant, auto repair or trucking company terminal.
- g. **Nuisances**. No machinery or equipment shall be permitted that produces noise, noxious odor, vibration, glare, electrical interference or radio or electromagnetic interference beyond the boundary of the property. Only general types and sizes of machinery that are typically found in dwellings for hobby or domestic purposes shall be permitted. No use shall generate noise or glare in excess of what is typical in a residential neighborhood.
- h. **Parking and Loading** - In any case, a home occupation shall include an absolute minimum of 1 off-street parking space (which may include a space for the dwelling). The Zoning Officer shall require a total of 3 off-street parking spaces if the use is intended to have patrons or visitors routinely on the property, unless the applicant proves that there is sufficient on-street parking.
- i. **Building Appearance** - The exterior of the building and the lot shall not be changed in such a way as to decrease its residential appearance, except for permitted parking spaces and the permitted sign.
- j. **Hours** - A home occupation shall not be conducted in a way that is perceptible from beyond the lot line between the hours of 9:00 p.m. and 7:30 a.m. This time limit shall also apply to any loading or unloading of vehicles on the property or on a street that causes noise to adjoining residents.
- k. **Number of Employees** - A total maximum of 1 person shall work on the premises who is not a permanent resident of the dwelling.
- l. **Instruction** - Any instruction or tutoring shall be limited to a maximum of: 3 students on the property at any one time and 8 students on the property on any day.
- m. If the home occupation involves permitted work on a vehicle(s) (such as installation of accessories), such vehicle(s) shall not be parked on the lot or on abutting streets overnight.
- n. **Signs** - See Article 7.

Hospital. Definition: A use involving the diagnosis, treatment or other medical or hospice care of humans that includes, but is not limited to, care requiring stays overnight. A medical care use that does not involve stays overnight shall be considered a "Medical Office or Clinic."

Hotel or Motel. Definition: A building or buildings including rooms rented out to persons as clearly transient and temporary living quarters. Any such use that customarily involves the housing of persons for periods of time longer than 30 days shall be considered a "boarding house" and shall meet the requirements of that use. See also "bed and breakfast" use. A hotel or motel may include a restaurant, nightclub, newsstand or tavern, provided that such uses are clearly accessory to the principal use of overnight accommodations.

Household Antenna. (including Satellite Antenna)

Definition: A device exterior to a building that is used for receiving and/or transmitting electronic signals or short-wave or citizens band radio frequencies, and that does not meet the definition of a "Commercial Communications Antennae." This includes any accessory supporting structures. This term includes satellite dish antennae used to receive broadcasts.

Use Standards:

- a. **Height**. No household antenna, including its supporting structure, shall have a total height above the average surrounding ground level of greater than 75 feet.
- b. **Anchoring**. Any household antenna shall be properly mounted to resist high winds.

- c. A household antenna shall be a permitted by right accessory use in all Districts for all uses.
- d. Location and Number of Satellite Dish Antennae.
 - 1) In a residential district, a satellite dish antenna shall not be located within the required front yard.
 - 2) A satellite dish antenna shall comply with the accessory setback requirements of the applicable district.
 - 3) A satellite antenna of more than 3 feet diameter shall not be roof-mounted on a dwelling in a residential district.
 - 4) A maximum of 1 satellite dish antenna shall be permitted on any residential lot in a residential district.
- e. Size and Height. A ground-mounted satellite dish antenna shall have a maximum diameter of 9 feet and a maximum total height of 14 feet in a residential district if visible from a public street or a dwelling. No maximum shall apply within other districts.
- f. Screening. Any satellite dish antenna in a residential district that is ground-mounted and visible from a public street shall be screened by appropriate evergreen plantings with a minimum height of 3 feet between the antenna and any public street, unless the applicant proves to the satisfaction of the Zoning Officer that screening in such a location would make it impossible to receive the electronic signals.

Impervious Coverage. Definition: The total area of all "impervious surfaces" on a lot (including building coverage) divided by the total lot area. Areas being voluntarily dedicated as common open space may be included in the total lot area for determining impervious coverage of an adjoining lot.

Impervious Surface. Definition: Area covered by roofs, concrete, asphalt or other man-made cover which has a coefficient of runoff of 0.7 or higher. In case of dispute, the Borough Engineer shall decide any dispute over whether an area is "impervious."

Industrial District. Definition: The I District.

Industrial Use. Definition: Includes manufacturing, distribution, warehousing and other operations of an industrial and not primarily of a commercial, institutional or residential nature.

Junk. Definition: Any discarded, unusable, scrap or abandoned man-made or man-processed material or articles, such as the following types: metal, furniture, appliances, motor vehicle parts, aircraft, glass, plastics, machinery, equipment, containers and building materials. Junk shall not include: a) solid waste that is temporarily stored as is customary in an appropriate container that is routinely awaiting collection and disposed of in a manner consistent with State regulations, b) toxic wastes, c) grass clippings, leaves or tree limbs, or d) items clearly awaiting imminent recycling at an approved recycling use.

Junk Vehicle.

Definition: Includes any vehicle or trailer that meets any of the following conditions:

- a. does not display a license plate with a current registration sticker and does not have a valid State safety inspection sticker (except for licensed antique cars not required to have an inspection sticker), (licenses or inspection stickers that expired less than 90 days ago shall be considered current for the purposes of this Section),
- b. has been demolished beyond repair,
- c. has been separated from its axles, engine, body or chassis, and/or
- d. includes only the axle, engine, body parts and/or chassis, separated from the remainder of the vehicle.

Junkyard.

Definition:

- a. Land or a structure used for the collection, storage, dismantling, processing and/or sale, other than within a completely enclosed building, of material of 1 or more of the following types:
 - 1) "Junk." (see definition).
 - 2) A greater number of junk vehicles than is permitted under Section 602 that are partly or fully visible from an exterior lot line, dwelling and/or public street. This shall not apply to such vehicles allowed to be stored within the specific requirements of an auto repair garage or auto service station.
 - 3) One or more mobile/manufactured homes that are not in a habitable condition.
- b. Junk stored within a completely enclosed building for business purposes shall be considered a warehouse and shall be regulated as a warehouse.

Use Standards:

- a. Storage of garbage or biodegradable material is prohibited, other than what is customarily generated on-site and routinely awaiting pick-up.
- b. Outdoor storage of junk shall be at least: a) 80 feet from any residential lot line and b) 40 feet from any other lot line and the existing right-of-way of any public street.
- c. The site shall contain a minimum of 2 exterior points of access, each of which is not less than 20 feet in width. One of these accesses may be limited to emergency vehicles. Cleared driveways shall be provided throughout the entire use to allow access by emergency vehicles. Adequate off-street parking areas shall be provided for customers.
- d. Outdoor storage shall be completely enclosed (except at approved driveway entrances) by a 40 foot wide buffer yard which complies with Section 802, unless such storage is not visible from an exterior lot line or street. The initial height of the evergreen planting shall be 6 feet. Secure wood or chain link fencing with a minimum height of 8 feet shall be provided and well-maintained around all outdoor storage areas. Such fencing shall be provided inside of the evergreen screening.
- e. Burning or incineration of vehicles or junk is prohibited.
- f. See the noise and dust regulations of Article V.
- g. All gasoline and oil shall be drained from all vehicles and properly disposed of. All batteries shall be removed from vehicles and properly stored in a suitable area on an impervious, properly drained surface.
- h. Lot area - 3 acres minimum; 20 acres maximum.

Kennel.

Definition: The keeping of a greater number of dogs or cats on a lot or within a dwelling unit beyond that number permitted under the "Keeping of Pets" or the "Crop Farming" provisions of this Ordinance. A non-profit animal shelter is a type of kennel.

Use Standards:

- a. All buildings in which animals are housed and all runs shall be located at least 150 feet from all "residential lot lines" and 30 feet from all other lot lines.
- b. Buildings shall be adequately soundproofed so that sounds generated within the buildings cannot routinely be heard within any adjacent dwelling.
- c. No animal shall be permitted to use outdoor runs from 8 p.m. to 8 a.m. that are within 300 feet of an existing dwelling. Runs for dogs shall be separated from each other by visual barriers a minimum of 4 feet in height, to minimize dog barking.
- d. See State law regulating kennels.
- e. A kennel may be used for breeding.
- f. Minimum lot area - 2 acres.
- g. An evergreen screen meeting the requirements of Section 802.C. shall be required between any outdoor animal runs and any abutting "residential lot line."

Landowner. Definition: The owner of a legal or equitable interest in land, including the holder of a written, signed and active option or contract to purchase or a person leasing the property (if authorized under the lease to exercise the right of the landowner and if such lease is for a remaining period of at least 12 months), or authorized officers of a partnership or corporation that is a "landowner" or other person having a proprietary interest in land. A person who has clearly received formal notarized powers of attorney relating to a landowner may act in the capacity of the landowner, if legally authorized.

Library. Definition: See "Cultural Center."

Livestock, Raising of.

Definition: The raising and keeping of livestock, poultry or insects for any commercial purposes or the keeping of any animals for any reason beyond what is allowed under the "Keeping of Pets" section of this article and beyond what is allowed within the definition of "crop farming." For the purposes of this Ordinance, the "keeping of livestock" shall have the same meaning as "animal husbandry." The raising of livestock shall not include a slaughterhouse nor a stockyard used for the housing of animals awaiting slaughter.

Use Standards:

- a. Minimum lot area - 7 acres.
- b. Any newly developed indoor area used for the keeping of animals or indoor or outdoor manure storage areas or feeding areas that are part of a raising of livestock use shall be located a minimum of 250 feet from the following: "residential lot lines" (except the dwelling of the operator of the livestock use) and lot lines of existing restaurants and existing office uses, and a minimum of 100 feet from all other exterior lot lines.
- c. Any additions to an existing indoor area used for the raising of livestock or indoor or outdoor manure storage areas or feeding areas that are part of raising of livestock use shall be located a minimum of 200 feet from the lot lines of existing dwellings (except the dwelling of the operator of the livestock use) and undeveloped residentially zoned lots.
- d. Any area used for the keeping of animals as part of a raising of livestock use that is not regulated by the standards b. and c. above shall be separated by a fence or wall and setback 50 feet from any lot line of an existing dwelling or an undeveloped residentially zoned lot.
- e. The keeping of minks or garbage-fed pigs shall be setback a minimum of 300 feet from all lot lines.

Lot. Definition: A separate parcel of land that is recorded or that will be recorded after Borough final subdivision approval in the office of the County Recorder of Deeds. A parcel under common ownership that is completely separated into two parts by a public street shall be considered to be one tract but two lots.

Lot Area.

Definition: The horizontal land area contained within the lot lines of a lot (measured in acres or square feet), but excluding the following:

- a. Areas within the "existing" legal rights-of-way of any proposed or existing public streets or alleys, based upon such width after the development is completed,
- b. Areas that are currently or will be required to be dedicated as common open space, or
- c. Areas within rights-of-way intended for overhead electrical lines of 35 kilovolts or higher capacity, which shall only be excluded for residential lots.

Lot, Corner. Definition: A lot abutting on 2 or more intersecting streets which has an interior angle of less than 135 degrees at the intersection of right-of-way lines of two streets. A lot abutting upon a curved street or streets shall be considered a "corner lot" if the tangent to the curve at the points beginning within the lot or at the points of intersection of the side lot lines with the street lines intersect

at an angle of less than 135 degrees.

Lot Depth. Definition: The average horizontal distance between the front and the rear lot lines, measured through the approximate center of the lot.

Lot Lines. Definition: The property lines bounding the lot. Wherever a property line borders a public street, the lot line shall be considered to be the existing street right-of-way. See definition of yards.

Lot Width. Definition: The horizontal distance between the side lot lines measured at the minimum prescribed front yard setback line, unless otherwise stated. In the event of a curved lot line, the lot width shall be measured using a straight line from end to end.

Manufacture. Definition: The making, with substantial use of machinery, of some product for sale, and/or associated assembly, fabrication, cleaning, testing, processing, recycling, packaging, conversion, production, distribution and repair, with substantial use of machinery, of products for sale. This term shall not include the following: retail sales, personal services, solid waste disposal facility or trucking company terminal.

Massage Parlor.

Definition:

An establishment that meets all of the following criteria:

- a. Manipulative exercises are performed on 1 person by another person who is not a "relative" and that is related to some form of valuable compensation.
- b. The person conducting the massage is not licensed as a health care professional or a licensed massage therapist by the State.
- c. The massages are not conducted within a licensed hospital, nursing home, personal care center or office of a medical doctor or chiropractor.
- d. The massages are conducted within private or semi-private rooms.
- e. The use is not clearly a customary and incidental accessory use to a permitted exercise club or to a high school or college athletic program.

Use Standards: The standards for an "adult use" shall apply.

Medical Office or Clinic. Definition: A use involving the treatment and examination of patients by State-licensed physicians or dentists, provided that no patients shall be kept overnight on the premises. This use may involve the testing of tissue, blood or other human materials for medical or dental purposes.

Membership Club.

Definition: An area of land or building used by a recreational, civic, social, fraternal, religious, political or labor union association of persons for meetings and routine socializing and recreation that is limited to members and their occasional guests, and persons specifically invited to special celebrations, but which is not routinely open to members of the general public and which is not primarily operated as a for-profit business.

Use Standards:

The club shall involve a meaningful and substantial membership system, as opposed to a token system. This use shall not include a target range for outdoor shooting, boarding house, a tavern, a restaurant or an auditorium unless that particular use is permitted in that District and the requirements of that use are met.

Mobile/Manufactured Home. See under "Dwelling Types."

Mobile/Manufactured Home Park.

Definition: A parcel of land under single ownership which has been planned and improved for the placement of 2 or more mobile/manufactured homes for non-transient residential use. The individual manufactured homes may be individually owned. A development of mobile/ manufactured homes that is subdivided into individual lots shall be regulated in the same manner as a subdivision of site-built homes, and shall not be considered to be a "mobile home park."

Use Standards:

- a. In no case shall the maximum average density of a mobile home exceed a total of more than 5 dwelling units per acre. This density shall be determined by dividing the total proposed number of dwelling units by the total lot area of the mobile home park.
- b. An evergreen buffer yard meeting the requirements of Section 802.C. shall be provided by a mobile home park abutting any "residential lot line."
- c. A minimum average of 1 deciduous shade tree shall be planted and maintained per dwelling unit.
- d. No building within a mobile home park shall be placed within:
 - 1) 75 feet of a lotline of an existing single family detached or single family semi-detached dwelling lot or undeveloped residentially zoned land, and
 - 2) within 50 feet of any other exterior lot line of the mobile home park.
 - 3) From the cartways of streets within the mobile home park that serve 10 or more homes: 25 feet.
 - 4) From the cartways of parking courts or streets within the mobile home park that serve less than 10 homes: 10 feet.
- e. The use shall comply with all of the provisions of the Subdivision and Land Development Ordinance that apply to a land development, including the submission, approval and improvements provisions, other than specific provisions altered by this Section. The placement of each mobile home unit shall require a building permit.
- f. Minimum tract size of 2 contiguous acres, which shall be under single ownership.
- g. Minimum separation between dwelling units- 20 feet, except that carports, awnings and unenclosed porches may be setback a minimum of 15 feet from another dwelling unit on the tract.
- h. Recreation Area. A minimum of 10 percent of the total lot area of the mobile home park shall be permanently set aside for recreation use of the residents. Areas within 15 feet of any principal building, other than a recreation building, shall not count towards the required open space.
- i. Each unit shall comply with the requirements for Mobile/ Manufactured Homes in this Section 202.
- j. A mobile/ manufactured home park may include a recreation center for residents, a rental/management office, maintenance buildings for the park, a swimming pool(s) and the sale of mobile/ manufactured homes that will be placed on the tract. A mobile home park shall not include the sale of homes for placement off the tract.
- k. In addition to the required parking per dwelling, an appropriate area shall be set aside for the parking of recreational vehicles of residents and for overflow guest parking.
- l. The maximum height, building coverage and impervious coverage of the applicable zoning district shall apply.
- m. All mobile home spaces shall be wired underground for cable television and telephone lines.

Motel. See "Hotel."

Municipalities Planning Code or State Planning Code. Definition: The Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended by Act 170 of 1988, and as may be further amended.

Nature Preserve. Definition: A noncommercial preservation of land for providing wildlife habitats, forests or scenic natural features that involves no buildings other than a nature education and/or study center and customary maintenance buildings.

Night Club. Definition: A tavern or restaurant that has a primary or substantial portion of the total trade in the sale of alcoholic beverages, which frequently charges admission or cover charges for entertainment or music for dancing and which has a capacity of more than 250 persons for such entertainment or dancing.

Nonconforming Lot. Definition: A lot which does not conform with the minimum lot width or area dimensions specified for the district where such lot is situated, but was lawfully in existence prior to the effective date of this Ordinance or is legally established through the granting of a variance by the Zoning Hearing Board, and which is not abutted by other another nonconforming lot owned by the same owner.

Nonconforming Structure. Definition: A structure or part of a structure manifestly not designed to comply with the applicable lot area, dimensional and other provisions in this Ordinance, as amended, where such structure lawfully existed prior to the enactment of such Ordinance or applicable amendment. Such nonconforming structures include but are not limited to signs.

Nonconforming Use. Definition: A use, whether of land or of a structure, which does not comply with the applicable use provisions in this Ordinance or amendments heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this Ordinance or applicable amendment.

Nursing Home. Definition: A facility licensed by the State for the housing and intermediate or fully-skilled nursing care of 3 or more persons.

Office. Definition: A use that involves administrative, clerical, financial, governmental or professional operations and operations of a similar character. This use shall include neither retail nor industrial uses, but may include business offices, medical or dental offices, clinics or laboratories and/or television or radio broadcasting studios.

Official Map. Definition: Any Official Map that may be adopted or amended by the Borough Council in accordance with the PA. Municipalities Planning Code.

Official Street Classification Map. Definition: The map as adopted by the Borough Council classifying the streets of the Borough. See definition of "Street Classification." This map may be amended by resolution of the Borough Council.

Official Zoning Map. Definition: The map as adopted by the Borough Council which designates the location and boundaries of zoning districts.

Open Space, Common.

Definition: A parcel or parcels of land within a tract which is designed, intended and suitable for active or passive recreation by residents of a development or the general public.

Use Standards:

- a. if not intended to be publicly owned, is covered by a system for perpetual maintenance,
- b. will be deeded to the Borough and/or deed restricted to permanently prevent uses of land other than "common open space" and non-commercial recreation and

- c. does not use any of the following areas to meet minimum open space requirements: 1) existing or future street rights-of-way, 2) vehicle accessways, 3) buildings (other than accessory buildings and pools clearly intended for noncommercial recreation), 4) off-street parking (other than that clearly intended for noncommercial recreation), 5) any area needed to meet a requirement for an individual lot, 6) any area deeded over to an individual property owner for his/her own use or 7) land with rights-of-way intended eventually for overhead electrical transmission of 35 kilovolts or greater capacity.

Ordinance, This. Definition: The Mercersburg Borough Zoning Ordinance, including the Official Zoning Map and Official Street Classification Map, as amended.

PA. Definition: Pennsylvania.

Parking. Definition: Shall mean off-street parking and aisles for vehicles unless otherwise stated.

Paved Area. Definition: All areas covered by gravel and/or impervious surfaces, other than areas covered by buildings, bicycle paths and pedestrian sidewalks.

PennDOT. Definition: The Pennsylvania Department of Transportation, or its successor, and its subparts.

Permit. Definitions: A document issued by the proper Borough authority authorizing the applicant to undertake certain activities.

- a. Permit Under this Ordinance. A portion of the Borough Building Permit that authorizes an applicant to proceed with a use, building, sign or structure regulated under this Zoning Ordinance.
- b. Building or "Construction" Permit. A permit indicating that a proposed construction, alteration, or reconstruction of a structure is, to the best knowledge of the Borough Staff, in accordance with the provisions of the Building Permit Ordinance.

Permitted By Right Uses. Definition: Uses that do not have to be approved as uses by the Zoning Hearing Board or the Borough Council. (A site plan review by the Planning Commission and the Borough Council is required for certain permitted by right uses to ensure that the use would comply with all Borough ordinances.) A "nonconforming use" shall not be considered to be a "permitted use."

Personal Care Home or Center. Definition: A residential use providing residential and support services primarily to persons who are over age 60, physically handicapped and/or mentally retarded and that is licensed as a Personal Care Center by the Commonwealth of Pennsylvania. (See "nursing home" in Table of Permitted Uses, Article III.)

Personal Service. Definition: An establishment that provides a service oriented to personal needs of the general public and which does not involve primarily retail or wholesale sales or services to businesses. Personal services include barber and beauty shops, State-licensed massage therapists, photography studios, shoe repair shops, household appliance repair shops, and other similar establishments, but shall not include any "adult uses."

Pets, Keeping of.

Definition: The keeping of domestic animals that are normally considered to be kept in conjunction with a dwelling for the pleasures of the resident family. This shall include dogs, cats, small birds, gerbils, rabbits and other animals commonly sold in retail pet shops. See Section 403.

Use Standards:

- a. This is a permitted by right accessory use in all districts. Only those types of pets that are domesticated and those numbers and types of pets that are compatible with a residential character shall be permitted as "Keeping of Pets." Examples of permitted pets include dogs, cats, rabbits, snakes that are not poisonous to humans, gerbils and fish, but do not include bears, goats, cows, snakes that are poisonous to humans, wolves, wolf-dog hybrids, pigs (other than miniature breeds) or sheep.
- b. No use shall involve the keeping of animals or fowl in such a manner or of such types of animals that it creates a serious nuisance (including noise or odor), a health hazard or a public safety hazard. The owner of the animals shall be responsible for regularly collecting and properly disposing of all fecal matter from pets. No dangerous animals shall be allowed outdoors, except within a completely secure enclosure or on a leash under full control of the owner.
- c. The total number of dogs and cats shall be a combined maximum of 6, except a maximum of 12 shall apply if the animals are regularly kept at least 200 feet from a residential lot line. This maximum number shall not apply to cats and dogs of less than 3 months age. Keeping of more than the specified number of cats or dogs shall be considered a kennel.
- d. Horses. In any zoning district it is permitted to maintain up to 2 horses on a lot of 2 acres or more. Any horse barn, corral, fenced-in area or stable shall be a minimum of 30 feet from any abutting lot line (other than a street right-of-way) and 150 feet from any existing dwelling other than that of the owner of the horses. Keeping of more than the specified number of horses shall be considered a "stable."
- e. Keeping of carrier pigeons is permitted provided such use complies fully with the applicable State law.

Places of Worship.

Definition: Buildings, synagogues, churches, religious retreats, monasteries, seminaries and shrines used primarily for religious and/or spiritual worship and that are operated for nonprofit and noncommercial purposes.

Use Standards:

A place of worship may include 1 dwelling unit as an accessory use. If a religious use is primarily residential in nature, it shall be regulated under the appropriate "dwelling type."

Planning Commission. Definition: The Planning Commission of the Borough of Mercersburg.

Plant Nursery. Definition: The indoor and/or outdoor raising of trees, plants, shrubs or flowers for sale, but not primarily including commercial forestry for lumber. A plant nursery may include the growth of trees for sale for internal decoration of homes, such as a Christmas tree farm.

Portable Classroom. Definition: A building used for instruction as part of a primary or secondary school, and which is located on the same lot as and accessory to such school, which is not intended to be used on that site for more than 10 years, and which is designed with modular construction so that it could be relocated at another site.

Principal Building. Definition: The building in which the principal use of a lot is conducted. Any building that is physically attached to a principal building shall be considered part of that principal building.

Principal Use. Definition: A dominant use(s) or main use on a lot, as opposed to an accessory use.

Property Line. Definition: Has the same meaning as "lot line."

Public Notice. Definition: Notice required by the PA. Municipalities Planning Code.

Publicly-Owned Recreation. Definition: Land and/or facilities that are owned by a government agency or the Borough and are available for use by the general public for leisure and recreation.

Recycling Collection Center.

Definition: A use for collection and temporary storage of more than 500 pounds of common household materials for recycling, but that does not involve processing or recycling other than routine sorting, baling and weighing of materials. This term shall not include the indoor storage of less than 500 pounds of household recyclables and their customary collection, which is a permitted by right accessory use in all zoning districts, without additional regulations. A recycling collection center is also a permitted by right accessory use to a public or private primary or secondary school, a place of worship, a Borough-owned use, an emergency services station or a college or university.

Use Standards:

- a. This use shall not be bound by the requirements of a Solid Waste Disposal Facility.
- b. All materials shall be kept in appropriate containers, with appropriate sanitary measures and frequent enough emptying to prevent the attraction of insects or rodents and to avoid fire hazards.
- c. Adequate provision shall be made for movement of trucks if needed and for off-street parking.
- d. A 10 feet wide buffer yard with screening as described in Section 802.C. shall be provided between this use and any abutting "residential lot line."
- e. Materials to be collected shall be of the same character as the following materials: paper, fabric, cardboard, plastic, metal, aluminum, yard waste and glass. No garbage shall be stored as part of the use, except for that generated on-site and that accidentally collected with the recyclables. Only materials clearly being actively collected for recycling may be stored on site.
- f. The use shall only include the following operations: collection, sorting, baling, loading, weighing, routine cleaning and closely similar work. No burning or landfilling shall occur. No mechanical operations shall routinely occur at the site other than operations such as baling of cardboard.
- g. The use shall not routinely include the collection or processing of pieces of metal that have a weight greater than 50 pounds, except within an industrial district.
- h. The use shall include the storage of a maximum of 200 tons of materials on the site if the use is within a residential district and within 250 feet of an existing dwelling.

Residential District. Definition: The SFR, TR, TC2, and GR Zoning Districts.

Residential Lot Lines. Definition: The lot line of a lot that: 1) contains an existing dwelling on a lot of less than 3 acres or b) is undeveloped, zoned as a Residential District and is not approved by the Borough for a principal non-residential use.

Restaurant.

Definition: An establishment that sells ready-to-consume food or drink, that routinely involves the consumption of at least a portion of such food on the premises. A restaurant may include the accessory sale of alcoholic beverages. However, if such sale is a primary or substantial portion of the total trade, the requirements of a "tavern" or nightclub must also be met.

Use Standards:

- a. Dumpster Screening and Waste Containers - See Section 513.
- b. A maximum of two outdoor menu boards are permitted, beyond the signs normally permitted, with a maximum sign area of 40 square feet each if drive-thru service is provided, if the words on such signs are not readable from beyond the lot line.

- c. Traffic circulation onto, within and off of the lot shall be clearly marked. A drive-thru use shall be designed with space for an adequate number of waiting vehicles while avoiding conflicts with traffic onto, around and off of the site.

Retail Store or Retail Sales. Definition: A use in which merchandise is sold or rented to the general public, but not including the following: sales of motor vehicles or boats, adult use, manufacturing, tavern, car wash, auto service station, auto repair garage, hotel/motel, convenience store or any restaurant.

Right-of-Way. Definition: Land reserved for the public or others for use as a street or other purpose. Unless otherwise stated, "right-of-way" shall mean the existing street right-of-way line.

- a. Right-of-Way, Existing or Legal. Definition: The line separating a lot from the established official street right-of-way that either the Borough or the Commonwealth will own after the completion of any proposed subdivision, land development or development of a use under this Ordinance.

School, Public or Private Primary or Secondary School. Definition: An educational institution primarily for persons between the ages of 5 and 19 that primarily provides State-required or largely State-funded educational programs. This term shall not include "Trade Schools" (such as privately operated schools of trade, vocation or business).

Self-Storage Development.

Definition: A building or group of buildings divided into individual separate access units which are rented or leased for the storage of personal and small business property.

Use Standards:

- a. Outdoor storage shall be limited to recreational vehicles, boats and trailers. No "junk vehicles" shall be stored within view of a public street or a dwelling.
- b. Trash, radioactive or highly toxic substances, garbage, refuse, explosives or flammable materials, hazardous substances, animal carcasses or skins, or similar items shall not be stored.
- c. Nothing shall be stored in interior traffic aisles, required off-street parking areas, loading areas or accessways.
- d. Major body work on vehicles shall not be permitted. The use shall not include a commercial auto repair garage unless that use is permitted in the district and the use meets those requirements.
- e. Adequate lighting shall be provided for security, but it shall be directed away or shielded from any adjacent residential uses.
- f. Any areas of the use that are within 200 feet of the existing right-of-way of an arterial street or collector street shall be separated from that street by a buffer yard with screening under Section 802.C.
- g. Maximum building length- 250 feet.
- h. Minimum separation between buildings- 20 feet.

Setback Line. Definition:

- a. The line within a lot defining the required minimum distance between any structure to be erected or use to be developed and the adjacent street right-of-way or exterior lot line (when the property is not abutted by a right-of-way). Such line shall be measured at right angles from and parallel to the front lot line.
- b. Any building setbacks shall be measured from the foundation, exterior wall or other component of a structure that is closest to the right-of-way line or lot line from which the setback is being measured. See exceptions for eaves and cornices in Section 802.B.
- c. Unless otherwise stated, setback distances are for both accessory and principal structures.

- d. **Private Streets** - For a building setback measured from a private street, the setback shall be measured from the existing right-of-way of such a street, if a right-of-way exists. If a private street does not have a right-of-way, the setback shall be measured from the edge of the cartway.

Sewage Disposal System. Definition: A system to collect, treat and dispose of sewage. No such system shall be permitted that does not comply with local, State and Federal requirements.

Shopping Center. Definition: A use involving 5 or more retail or personal service uses or establishments and that primarily involves retail sales. If 2 or more abutting lots each include 5 or more retail sales uses and are developed under common or closely related ownership, then those lots shall together be considered as 1 shopping center. A shopping center may also include a mix of permitted personal service, office and/or commercial recreation uses.

Sight Distance. Definition: An area required to be kept free of visual obstruction. See the Borough Subdivision and Land Development Ordinance.

Sign. Definition: Any physical device for visual communication that is used for the purpose of attracting attention from the public and that is visible from beyond an exterior lot line, including all symbols, words, models, displays, banners, flags, devices or representations. This shall not include displays that only involve symbols that are clearly and entirely religious in nature, and which do not include advertising. See definitions of types of signs in Sections 711 and 703.

Sign Area. See Section 711.

Sign, Off-Premise. Definition: A sign which directs attention to an object, product, service, place, activity, person, institution, organization, or business that is primarily offered or located at a location other than the lot upon which the sign is located.

Slaughter House. Definition: A use involving the killing of animals for the production of food or some other commercial product. A commercial stockyard or similar facility that primarily involves the bulk storage or transferring of animals on the way to slaughter shall also be considered a slaughter house. This shall not include a custom "butcher shop" that does not involve killing of animals (which is a retail sales use).

Slope. Definition: The vertical change of an area of land divided by the horizontal change, measured in percent.

Solid Waste.

Definition:

- a. Any garbage, refuse, sewage sludge or other discarded material, including solid, liquid, semi-solid or contained gaseous material resulting from industrial, institutional, public, household, commercial or mining activities.
- b. For the purposes of this Ordinance, the following materials shall not be considered to be solid waste: 1) portions of trees or shrubs, leaves, mulch and rocks, 2) substances legally disposed of into the air or water through a Federal or State pollution discharge permit, 3) customary residual wastes from a permitted mineral extraction use or 4) materials of a character such as paper, plastic, aluminum and metal that have been separated from the waste stream for recycling.

Solid Waste Facility.

Definition:

- a. Land or structures where solid waste is processed, incinerated or disposed of. This shall only include the following facilities, each of which shall be required to have all permits required by the State in place prior to initiation of the use: sanitary landfill, solid waste transfer facility or solid waste-to-energy facility.
- b. The following uses for the purposes of this Ordinance shall not be considered to be a solid waste disposal facility: junkyard, recycling collection center, leaf composting, clean fill or septage or sludge application.

Solid Waste-to-Energy Facility. Definition: A type of "Solid Waste Disposal Facility" that utilizes waste (such as trash, sludge or any other nonhazardous commercial, residential or industrial materials) as a fuel to produce usable energy (such as steam or electricity) in bulk to be marketed for reuse as energy. Also see the definition of this term in Title 25 of PA. DER regulations.

Solid Waste Transfer Facility.

Definition:

A type of "Solid Waste Disposal Facility" which receives and temporarily stores solid waste at a location other than the generation site, and which facilitates the bulk transfer of accumulated solid waste to a facility for further processing or disposal, and which may or may not involve the separation of recyclables from solid waste. Also see the definition of this term in Title 25 of PA. DER regulations.

Use Standards:

- a. All solid waste storage, disposal and incineration shall be at least 200 feet from the following: public street right-of-way, exterior lot line, 100 year floodplain, edge of a surface water body (including a water filled quarry) or wetland of more than 2 acres in area.
- b. All areas to be used for the storage or disposal of solid waste shall be a minimum of 500 feet from any "residential lot line" or publicly-owned recreation area or the banks of any perennial creek or river.
- c. The use shall be served by a minimum of 2 paved access roads, each with a minimum cartway width of 24 feet. One of these roads may be restricted to use by emergency vehicles.
- d. No burning or incineration shall be permitted. Any solid waste that is to be stored for more than 3 hours shall be stored in an enclosed structure.
- e. The operation and day-to-day maintenance of the solid waste disposal area shall comply with all applicable State and Federal regulations as a condition of the continuance of any permit of the Borough. Violations of this condition shall also be considered to be violations of this Ordinance.
- f. The applicant shall prove to the satisfaction of the Zoning Hearing Board that the existing street network can handle the additional truck traffic, especially without bringing extraordinary numbers of trash hauling trucks through or alongside existing residential or residentially zoned areas.
- g. The applicant shall prove to the satisfaction of the Zoning Hearing Board that the use would not routinely create noxious odors off of the tract.
- h. A chainlink or other approved fence with a minimum height of 8 feet shall surround active solid waste disposal areas to prevent the scattering of litter and to keep out children, unless the applicant proves to the satisfaction of the Zoning Hearing Board that this is unnecessary. The Board shall require earth berms, evergreen screening and/or shade trees as needed to prevent operations from being visible from arterial street(s) or dwelling(s).
- i. A minimum total lot area of 5 acres is required for the first 250 tons per day of capacity to treat or dispose of waste, plus 1 acre for each additional 100 tons per day of capacity. The facility shall have a maximum total capacity of 750 tons per day.
- j. Health Hazards. Any facility shall be operated in such a manner to prevent the attraction, harborage or breeding of insects, rodents or vectors.
- k. Attendant. An attendant shall be present during all periods of operation or dumping.
- l. Gates. Secure gates, fences, earth mounds and/or dense vegetation shall prevent unauthorized access.

- m. **Emergency Access.** The operator of the use shall cooperate fully with local emergency services. This should include allowing practice exercises on the site and the provision of all information needed by the emergency services to determine potential hazards. Adequate means of emergency access shall be provided.
- n. Under authority granted to the Borough under Act 101 of 1988, the hours of operations that are perceptible beyond the lot lines of an adjacent lot shall be limited to between 7 a.m. and 9 p.m.
- o. **Litter.** The operator shall regularly police the area of the facility and surrounding streets to collect litter that may escape from the facility or trucks.
- p. **Dangerous Materials.** No radioactive, hazardous, chemotherapeutic or infectious materials may be stored or processed in any way. Infectious materials are defined as medical wastes used or created in the treatment of persons or animals with seriously contagious diseases.
- q. The applicant shall provide sufficient information for the Borough to determine that the requirements of this Ordinance will be met.
- r. The applicant shall provide the Zoning Officer with a copy of all written materials and plans that are submitted to PA. DER at the same time as they are submitted to DER.
- s. All loading and unloading of solid waste shall only occur within an enclosed building, and over an impervious surface which drains to a holding tank that is then adequately treated.

Special Exception. Definition: A use for which the Zoning Hearing Board may grant permission following a public notice, a public hearing and findings of fact consistent with this Ordinance, provided the use complies with the conditions and standards required by this Ordinance. See Section 119.

Specified Sexual Activities. Definition: One or more of the following:

- a. Human male genitals in an visible state of sexual stimulation.
- b. Acts of human masturbation, sexual intercourse, oral sex or sodomy.
- c. Fondling or other erotic touching of human genitals.

Stable, Non-household. Definition: Keeping of more than 2 horses, which may include a commercial or private riding club. The housing of 1 or 2 horses shall be considered an accessory use under the "Keeping of Pets".

State. Definition: The Commonwealth of Pennsylvania and its agencies.

State Planning Code. See Municipalities Planning Code.

Storage Shed. Definition: An enclosed accessory building maintained primarily for the convenience of the occupant(s) of the principal building on the lot and which is not used for the housing of a motor vehicle.

Story (and Half-Story). Definition: A level of a building routinely accessible to humans having an average vertical clearance 6 feet or greater shall be considered a full story, except as provided for in the definition of "basement." Any level of a building having an average vertical clearance from floor to ceiling of less than 6 feet shall be considered a "half-story."

Street. Definition: A public or private thoroughfare which provides the principal means of access to abutting lots, but not including an alley or a driveway. The terms "street", "highway" and "road" have the same meaning and are used interchangeably.

Street Classification. Definition: The functional classification of streets into the following types, as shown on the Official Street Classification Map at the end of this Ordinance for existing streets and as determined by the Borough Engineer for future streets:

- a. Arterial Street. Designed for large volumes of traffic.
- b. Collector Street. Designed to carry a moderate volume of traffic to intercept local (residential) streets, to provide routes to minor arterial streets and to community facilities.
- c. Local Street. Designed to provide access to the abutting properties and a route to collector routes.

Structure. Definition: Any man-made object having an ascertainable stationary location on, below or in land or water, whether or not affixed to the land, subject to the following specific standards:

- a. The following specifically shall be considered to be structures: buildings, signs, stadiums, platforms, communications towers, walkways, porches or decks that are covered by a permanent structure; swimming pools (whether above or below ground); storage sheds, carports, and garages.
- b. Any structure shall be subject to the principal or accessory setbacks of this Ordinance, as applicable, unless specifically exempted or unless a specific setback is established for that particular type of structure by this Ordinance.

Subdivision. Definition: See the definition in the Borough Subdivision and Land Development Ordinance.

Subdivision Ordinance or Subdivision & Land Development Ordinance. Definition: The Mercersburg Borough Subdivision and Land Development Ordinance, as amended.

Swimming Pool, Household.

Definition: A man-made area with walls of man-made materials intended to enclose water at least 30 inches deep for bathing or swimming and that is intended to serve the residents of only 1 dwelling unit and their occasional guests, and that is an accessory use to a dwelling.

Use Standards:

- a. Enclosure Around In-Ground Pools. Any new or existing in-ground pool shall be completely surrounded by a secure fence, wall, portion of a building and/or similar enclosure not less than 4 feet in height. This enclosure shall be constructed to make it very difficult for small children to climb up or slip through the enclosure. All gates or door openings through such enclosure (other than a door to a building) shall be self-closing and include a self-latching device on the pool side for keeping the gate or door securely closed times when not in use.
- b. Enclosure Around Above-Ground Pool. Any existing or new above-ground pool shall include a secure fence, wall or other enclosure a minimum of 3.5 feet high above the surrounding average ground level. This enclosure may include the walls of the pool itself. Such pools shall be equipped with an access ladder that can be raised and locked in a position so that it is a minimum of 3.5 feet above the surrounding ground level or otherwise completely inaccessible to children when the pool is unattended.
- c. Location.
 - 1) Any deck or shelter that is elevated above the average surrounding ground level shall meet the applicable setback requirement for an accessory building.
 - 2) Patios around pools that are level with the average surrounding ground level are not required to meet setbacks.
 - 3) Where practical, a pool shall be located to the rear of a dwelling. A pool is not permitted within a required front yard.
 - 4) The structural walls of a pool shall be setback a minimum of 10 feet from a "residential lot line" and from an existing street right-of-way.
- d. The Borough does not assume responsibility for guaranteeing to the public that all new and existing pools fully comply with these provisions.

- e. **Wiring.** All electrical wiring uses in conjunction with a pool shall be installed underground or within a conduit to the nearest point of use. All wiring and all electrical connections shall be waterproof. All electrical motors, lights, pumps and other electrical equipment shall be properly grounded.

Swimming Pool, Non-Household.

Definition: A man-made area with walls of man-made materials intended to enclose water at least 30 inches deep for bathing or swimming and that does not meet the definition of a "household" swimming pool. This includes: 1) a "semi-public" pool that serves only residents of a development or members of a club and their occasional guests or 2) a "public" pool intended to serve the general public. In addition, a swimming pool limited to use by employees of a use or residents of a development is permitted as an accessory use to such use or development.

Use Standards:

- a. The water surface shall be setback at least 50 feet from any existing dwelling.
- b. Minimum lot area- 1 acre.
- c. Any water surface within 100 feet of an existing dwelling shall be separated from the dwelling by evergreen screening meeting the requirements of Section 802.C.
- d. The water surface shall be surrounded by a secure, well- maintained fence at least 6 feet in height.

Tavern. **Definition:** A place where alcoholic beverages are served as a primary or substantial portion of the total trade and which does not meet the definition of a "nightclub" or an "after-hours club." The sale of food may also occur. See also the definition of restaurant.

Theater. **Definition:** A building or part of a building devoted to the showing of motion pictures or theatrical or performing arts productions as a principal use, but not including an outdoor drive-in theater or adult movie theater.

Townhouse. See "Dwelling Types."

Tract. **Definition:** In certain zoning districts, the tract is the minimum amount of adjacent land area (which may be separated by alleys, streets or waterways) within the Borough that is required to be approved as part of an overall preliminary subdivision or land development plan in order to allow either certain types of uses or to allow the creation of lots smaller than a certain specified lot area. An area of land shall meet the following requirements in order to be considered a "tract:"

- a. shall only include lands within an approved subdivision or land development plan that includes a well-defined internal circulation system, maximum coordination between lots and carefully limited points of vehicular access onto streets exterior to the tract, and
- b. shall only include lands that at the time of the approval of the preliminary plan have one "landowner" (as defined by Article II), unless the applicant proves to the satisfaction of the Zoning Officer that there is a legally binding commitment between two or more "landowners" to coordinate the access and development of the tract as shown in the approved preliminary plan.

Trade School. **Definition:** A facility that is primarily intended for education of a work-related skill or craft or a hobby and that does not primarily provide State-required education to persons under age 16. This shall include a dancing school, martial arts school or ceramics school.

Treatment Center.

Definition: A use (other than a prison or a permitted accessory use in a "hospital") providing housing facilities for persons who need specialized housing, treatment and/or counseling for stays of less than 1 year and who need such facilities because of:

- a. criminal rehabilitation, such as a criminal half-way house or a treatment/housing center for persons convicted of driving under the influence of alcohol,
- b. addiction to alcohol and/or a controlled substance, or
- c. a type of mental illness or other behavior that could cause a person to be a threat to the physical safety of others.

Use Standards:

- a. The applicant shall provide a written description of all types of residents the use is intended to include over the life of the permit. Any future additions or modifications to this list shall require approval of the Zoning Hearing Board as a special exception.
- b. The applicant shall prove to the satisfaction of the Zoning Hearing Board that such use will involve adequate supervision and security measures to protect public safety.
- c. The Zoning Hearing Board may place conditions on the use as necessary to protect public safety, including conditions on the types of residents and security measures.

Trucking Company Terminal. Definition: A use involving a large variety of materials, including materials owned by numerous corporations, being transported to a site to be unloaded primarily from tractor-trailer trucks and reloaded onto tractor-trailer trucks, and that does not involve substantial processing or repackaging of the materials. A use that primarily involves either loading materials from tractor-trailers onto smaller trucks or loading materials from smaller trucks onto tractor-trailers shall be considered a "distribution" use.

Use Standards:

A trucking company terminal may include the following as clearly accessory uses if they are closely related to the principal use: repair, washing, refueling and maintenance facilities for trucks using the terminal, administrative uses for the terminal and rest facilities for truck drivers using the terminal.

Truck Stop. Definition: A commercial use that primarily involves providing fuel and other services to tractor-trailer trucks. This use may also involve providing repair services, sale of gifts and various household items, a restaurant, showers and a motel. This use shall not include an "adult use."

Use. Definition: The purpose, activity, occupation, business or operation for which land or a structure is designed, arranged, intended, occupied or maintained. Uses specifically include but are not limited to the following: activity within a building, activity outside of a building, any structure, recreational vehicle storage or parking of commercial vehicles on a lot.

Variance. Definition: The granting of specific permission by the Zoning Hearing Board to use, construct, expand or alter land or structures in such a way that compliance is not required with a specific requirement of the Zoning Ordinance. Any variance shall only be granted within the limitations of the PA. Municipalities Planning Code.

Veterinarian Office. Definition: A building routinely used for the treatment of animals and related housing or boarding of sick animals. Housing primarily healthy animals shall be considered a "kennel" and shall meet the requirements of that use.

Wall. See "Fence."

Warehouse. Definition: A building or group of buildings primarily used for the indoor storage, transfer and distribution of products and materials, but not including retail uses or a truck terminal, unless such uses are specifically permitted in that zoning district.

Water System. Definition: A system designed to transmit water from a source to users, in compliance with the requirements of the appropriate state agencies and the Borough.

- a. **"Public" Water Service.** Central water service by a system owned by a municipality or a municipal or county authority and which serves more than 30 dwellings or principal uses.
- b. **On-Lot or Non-Public Water Service.** Service by a water system that does not meet the definition of a "public water service." In most cases, this would involve an individual well serving an individual lot, but may also include a common well or another duly approved system.

Wetlands. Definition: An area of land and/or water meeting one or more definitions of a "wetland" under Federal and/or Pennsylvania law and/or regulations.

(NOTE: As of 1992, the following was the official U.S. Army Corps of Engineers' definition of wetlands: "Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas." Wetlands are technically defined on the basis of types of vegetation and soils and the level of the water table below the surface. As of 1992, the U.S. Army Corps of Engineers and DER enforce the wetlands regulations.)

Wholesale. Definition: Sales that primarily involve transactions with other businesses and their agents and not to the general public.

Yard. Definition: An area not covered by buildings and that is on the same lot as the subject structure or use. Regulations of specific districts prohibit principal and accessory structures within specified required minimum yards.

Yard, Front. Definition: A "yard" between the front lot line (which usually is the street right-of-way line) and the closest portion of the subject structure or use that extends the full width of the lot from side lot line to side lot line.

- a. The front yard shall be on a side that faces towards a public street, whenever one public street abuts the lot.
- b. When a lot abuts onto 2 or more public streets, the applicant may choose which is the front yard, unless the Zoning Officer determines that the front yard should follow the clearly predominant front yard orientation of the development of abutting lots.
- c. No accessory or principal structure shall extend into the required front yard, except as provided in this Ordinance, except as is otherwise specifically permitted.

Yard, Rear. Definition: A "yard" extending the full-width of the lot and situated between the rear line and the closest portion of the subject structure, and stretching between the side lot lines parallel to the rear lot line. (A principal building shall not extend into the required rear yard for a principal building, and an accessory structure shall not extend into the required rear yard for an accessory structure, except as provided in this Ordinance.)

Yard, Side. Definition: A "yard" situated between the closest portion of the subject structure and the entire length of the side lot line, and extending from the front lot line to the rear lot line. A structure shall not extend into the applicable minimum side yard, except as provided for in this Ordinance.

Zoning Map. Definition: The Official Zoning Map of Mercersburg Borough, Franklin County, Pennsylvania.

Zoning Officer. Definition: The administrative officer(s) charged with the duty of enforcing the provisions of the Zoning Ordinance, or his or her officially designated assistant(s).

Zoning Ordinance. Definition: The Mercersburg Borough Zoning Ordinance, as amended.

ARTICLE III DISTRICTS, PERMITTED USES AND YARD REQUIREMENTS

301. DESIGNATION OF DISTRICTS AND PURPOSES.

301.A. For the purpose of this Ordinance, Mercersburg Borough is hereby divided into the following zoning districts:

SFR	Single Family Residential District
TR	Town Residential District
GR	General Residential District
AC	Academic District
GC	General Commercial District
PC	Planned Commercial District
TC1	Town Center 1 District
TC2	Town Center 2 District
I	Industrial District
HD	Historic District (overlay district to all underlying districts) - See Article IX
FP	100 Year Floodplain (overlay district to all underlying districts) - See Section 515

301.B. The zoning districts stated in Section 301.A. shall be of the number, size, shape and location shown on the "Official Zoning Map." Any use of the abbreviations listed in Section 301.A. shall mean the district name that is listed beside the abbreviation.

301.C. Purpose of Each District. The following are summaries of the purposes of each zoning district, in addition to the overall purposes of this Ordinance as stated in Article I and the Comprehensive Plan.

1. SFR District - To provide for the orderly expansion of neighborhoods of single family detached houses at a low density. To carefully protect these areas from uses that may not be fully compatible. To encourage similar development next to existing neighborhoods.
2. TR District - To provide for the orderly expansion of areas that offer residential neighborhoods at a medium density. To recognize existing medium density residential areas of the Borough. To provide for a carefully selected variety of housing types. To carefully protect these areas from uses that may not be fully compatible.
3. GR District - To provide for a full variety of carefully- designed housing types at medium high densities. To make sure that varied housing types are compatible with any existing single family detached houses. To make sure that the street system of the Borough and other community facilities and services are fully able to handle moderately dense growth in an area. To work to encourage affordable housing, especially for young families, senior citizens and non-traditional types of households.
4. AC District - To provide for academic and related light institutional uses, in a campus setting.
5. PC District - To provide for a variety of commercial uses within well-planned and coordinated unified developments, such as shopping centers.

6. GC District - To provide for a wide range of needed commercial uses in locations that are less likely to involve conflicts with existing residences and that have excellent access to major highways. To use special care and control on access onto arterial and collector streets to avoid traffic hazards.
7. TC1 District - To encourage a pedestrian-scale of development that respects the historic character of the Downtown. To avoid incompatible types of auto-related uses, such as restaurant drive-thru service, car washes and auto repair. To seek to strengthen service, office, retail and restaurant businesses. To provide for a mix of residential and commercial uses.
8. TC2 District - To preserve the historic residential character of this area while encouraging pedestrian-scale development of light commercial uses. To provide for a mix of light service, office, craft and retail businesses that will be compatible with existing homes.
9. I District - To provide sufficient space in appropriate locations to meet current and anticipated future regional needs for light industries, offices and limited types of related commercial development. To carefully control uses to protect the public health and safety. To maintain an attractive physical environment that will aid in attracting new businesses.
10. HD Overlay District - See Article IX
11. FP Overlay District - See Section 515

302. APPLICATION OF DISTRICT REGULATIONS.

- 302.A. The regulations set by this Ordinance shall apply uniformly to each class or kind of structure or land, except as provided for in this Ordinance.
- 302.B. No structure or land shall hereafter be erected, used, constructed, reconstructed or structurally altered and no structure or part thereof shall hereafter be used or occupied unless it is in conformity with the regulations herein specified for the use and district in which it is located.
- 302.C. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.
- 302.D. Annexation. Any territory which may hereafter be annexed to the Borough shall be classified as the zoning district of the Borough most similar to the zoning of such territory before annexation (as determined by the Zoning Hearing Board) until otherwise classified.

303. ZONING MAP.

- 303.A. A map entitled, "Mercersburg Borough Zoning Map" accompanies this Ordinance and is declared a part of this Ordinance. The Official Zoning Map should bear the adoption date of this Ordinance and the words "Official Zoning Map." This map shall be retained in the Borough Offices. If the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of changes and additions, or needs to have drafting errors or omissions corrected, Borough Council may, by resolution, adopt a new copy of the Official Zoning Map

which shall supersede the prior Official Zoning Map.

303.B. Amendments. See Section 108.

304. **DISTRICT BOUNDARIES.** Where uncertainty exists as to boundaries of any district as shown on the Zoning Map, the following rules shall apply:

304.A. District boundary lines are intended to follow or be parallel to the center line of street rights-of-ways, streams and railroads, and lot lines as they existed on a recorded deed or plan of record in the County Recorder of Deeds' office at the time of the adoption of this ordinance, unless such district boundary lines are fixed by dimensions as shown on the Zoning Map.

304.B. Where a district boundary is not fixed by dimensions and where it approximately follows lot lines, such boundary shall be construed to follow such lot lines unless specifically shown otherwise.

304.C. In unsubdivided land or where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by the use of the scale appearing on the maps.

304.D. Interpretation of Boundaries. See Section 105.D.

305. **SETBACKS AND BUFFERS ACROSS MUNICIPAL BOUNDARIES.** This Ordinance requires additional setbacks and the provision of buffer yards when certain uses would abut an existing dwelling or a residential zoning district. These same setback and buffer yard provisions shall be provided for uses proposed within Mercersburg Borough if such an abutting dwelling or abutting primarily residential zoning district is located in an abutting municipality.

306. **TABLE OF PERMITTED USES BY DISTRICT**

306.A. For the purposes of this Section 306, the following abbreviations shall have the following meanings:

P = Permitted by right (zoning decision by Zoning Officer)

SE = Special exception use (zoning decision by Zoning Hearing Board)

N = Not Permitted

306.B. Unless otherwise provided by law or specifically stated in this Ordinance (including Section 105.B.), any land or structure shall only be used or occupied for a use specifically listed in this Ordinance as permitted in the zoning district within which the land or structure is located. Any use shall also only be permitted if the use complies with all other requirements of this Ordinance.

TYPES OF USES (See definitions in Article II)	SFR	TR	GR	AC	TC1	TC2	PC	GC	I
<u>AGRICULTURAL USES</u>									
Crop Farming (in addition to accessory home gardening)	P	P	P	P	N	N	P	P	P
Raising of Livestock as a principal use	N	N	N	N	N	N	N	N	SE
<u>RESIDENTIAL USES</u>									
Boarding House	N	N	N	N	N	N	N	SE	N
Group Home Within a lawful Dwelling Unit, not including a Treatment Center	P	P	P	P	P	P	P	P	N
Apartments	N	N	P	P	P	P	P	P	N
Single Family Detached Dwelling (including manufactured/mobile home)	P	P	P	P	P	P	N	P	N
Single Family Semi-Detached Dwelling (1/2 of twin)	N	P	P	P	P	P	N	P	N
Townhouse	N	N	P	P	P	P	N	N	N
Manufactured/Mobile Home Park	N	N	N	N	N	N	N	N	SE
Conversion of an Existing Building to Result in an Increased Number of Dwelling Units (See also creation of an accessory apartment within a single family detached dwelling) (this may include apartments in combination with a lawful commercial use)	N	P**	P	N	P	P	N	P	N
** = maximum of 2 dwelling units per lot									
Mixed Residential Development, which may include a mix of single family detached dwellings, single family semi-detached dwellings, townhouses and/or low-rise apartments, provided that any building including 3 or more apartments or townhouses shall be setback a minimum of 75 feet from any abutting lot line of a single family detached dwelling that existed prior to January 1, 1993. See Section 307.D.	P	N	N	N	N	N	N	N	N
Accessory Apartment - See under Accessory Uses in this Table.									
<u>COMMERCIAL USES</u>									
Adult Bookstore, Adult Movie Theater, Adult Live Entertainment Use or Massage Parlor	N	N	N	N	N	N	N	N	SE
Auditorium, Commercial	N	N	N	N	P	N	N	N	P
Auto Repair Garage	N	N	N	N	N	N	P	P	P

*** = See additional requirements for the TC2 district in Section 306.C.
P = Permitted by right (zoning decision by Zoning Officer)
SE = Special exception use (zoning decision by Zoning Hearing Board)
N = Not Permitted

TYPES OF USES (See definitions in Article II)	SFR	TR	GR	AC	TC1	TC2	PC	GC	I
COMMERCIAL USES									
Auto Service Station which may or may not include a convenience store	N	N	N	N	N	N	P	P	P
Auto, Boat or Mobile/Manufactured Home Sales	N	N	N	N	N	N	P	P	P
Bakery	N	N	N	N	P	P***	P	P	P
Bed and Breakfast Use	N	P	P	P	P	P	N	P	N
Beverage Distributor	N	N	N	N	P	N	P	P	P
Business Services	N	N	N	N	P	P***	P	P	P
Car Wash	N	N	N	N	N	N	P	P	P
Catering of Food Establishment for Off-Site Consumption (may be combined with a restaurant or retail sales if such use(s) are also permitted)	N	N	N	N	P	P***	P	P	P
Commercial Outdoor Recreation (includes miniature golf course, golf driving range)	N	N	N	N	N	N	P	P	P
Commercial Indoor Recreation (includes bowling alley, amusement arcade, roller or ice skating, batting practice and closely similar uses)	N	N	N	N	P	N	P	P	P
Communications Antennae, Commercial	N	N	N	N	N	N	N	SE	SE
Construction Company or Contract Tradesperson's Headquarters/ Storage	N	N	N	N	P*	P*	P	P	P
* Not including outdoor storage of materials that is visible from a street, alley or dwelling.									
Convenience Store, not include sale of gasoline	N	N	N	N	P	P***	P	P	N
Custom Crafts or Artisan's Studio	N	N	N	N	P	P***	P	P	P
Exercise Club	N	N	N	N	P	N	P	P	P
Financial Institution	N	N	N	N	P	P***	P	P	N
Financial Services - See Offices									
Funeral Home - with a 20,000 square feet minimum lot area	N	N	N	N	N	N	P	P	P
Kennel	N	N	N	N	N	N	P	P	P
Laundromat for Primarily Self-Service Use	N	N	N	N	P	N	P	P	P
Laundry, Commercial or Industrial	N	N	N	N	N	N	P	P	P
Lumber Yard	N	N	N	N	N	N	P	P	P
Medical Office or Clinic	N	N	N	N	P	P***	P	P	N
Motel or Hotel	N	N	N	N	P	N	P	P	N

*** = See additional requirements for the TC2 district in Section 306.C.
P = Permitted by right (zoning decision by Zoning Officer)
SE = Special exception use (zoning decision by Zoning Hearing Board)
N = Not Permitted

TYPES OF USES (See definitions in Article II)	SFR	TR	GR	AC	TC1	TC2	PC	GC	I
COMMERCIAL USES (Cont.)									
Nightclub	N	N	N	N	N	N	N	N	SE
Office	N	N	N	N	P	P***	P	P	P
Personal Services (includes tailoring, custom dressmaking, haircutting/styling, drycleaning, shoe repair and closely similar uses)	N	N	N	N	P	P***	P	P	N
Plant Nursery	N	N	N	N	P	P***	P	P	P
Repair of Household Items	N	N	N	N	P	P***	P	P	P
Restaurant	N	N	N	N	P(D)	P(D)***	P	P	N
	(D) =	Drive-thru service prohibited.							
Retail Store (not including uses listed individually in this table)	N	N	N	N	P	P***	P	P	N
Shopping Center	N	N	N	N	P	N	P	P	N
Stable, Nonhousehold	N	N	N	P	N	N	P	P	P
Tavern	N	N	N	N	P	N	P	P	N
Theater as a principal use	N	N	N	N	P	N	P	P	P
Trade School	N	N	N	N	P	SE***	P	P	P
Truck Stop	N	N	N	N	N	N	N	N	SE
Veterinarian Office	N	N	N	N	P	N	P	P	P
INSTITUTIONAL USES									
Cemetery without Crematorium	N	N	N	N	N	N	P	P	P
Crematorium	N	N	N	N	N	N	N	N	SE
College or University - Educational and Support Uses	N	N	N	P	P	P	P	P	N
Community Center or Library	N	P	P	P	P	P	P	P	N
Cultural Center or Museum	N	SE	SE	P	P	P	P	P	N

*** See additional requirements for the TC2 district in Section 306.C.

P = Permitted by right (zoning decision by Zoning Officer)

SE = Special exception use (zoning decision by Zoning Hearing Board)

N = Not Permitted

TYPES OF USES (See definitions in Article II)	SFR	TR	GR	AC	TC1	TC2	PC	GC	I
<u>INSTITUTIONAL USES (Cont.)</u>									
Day Care Center, Adult	N	N	P	P	P	P	P	P	N
Day Care Center, Child as a principal use	N	N	N	P	P	P***	P	P	N
Hospital	N	N	N	N	P	N	P	P	P
Membership Club	N	N	N	N	P	N	P	P	P
Nursing Home or Personal Care Home	N	SE	P	P	P	P***	P	P	P
Place of Worship	N	P	P	P	P	P	P	P	P
Park, Privately-Owned	N	N	N	N	P	P***	P	P	P
School, Public or Private, Primary or Secondary	N	P	P	P	P	P	P	P	P
Treatment Center	N	N	N	N	N	N	N	N	SE
<u>INDUSTRIAL USES</u>									
Assembly of Materials Manufactured Elsewhere	N	N	N	N	N	N	N	N	P
Asphalt Plant	N	N	N	N	N	N	N	N	N
Beverage Bottling	N	N	N	N	N	N	N	N	P
Building Supplies, Wholesale Sales of	N	N	N	N	SE	N	P	P	P
Distribution as a principal use (other than Trucking Company Terminal)	N	N	N	N	N	N	N	N	P
Finishing of Previously Prepared Resin, Vinyl, Polymer or Rubber Products	N	N	N	N	N	N	N	N	P
Industrial Equipment Sales, Rental and Service, other than vehicles primarily intended to be operated on public streets	N	N	N	N	N	N	N	P	P
Junk - outdoor storage, display or processing of, other than within an approved junkyard or solid waste disposal area	N	N	N	N	N	N	N	N	N

*** = See additional requirements for the TC2 district in Section 306.C.
P = Permitted by right (zoning decision by Zoning Officer)
SE = Special exception use (zoning decision by Zoning Hearing Board)
N = Not Permitted

TYPES OF USES
(See definitions in Article II)

	SFR	TR	GR	AC	TC1	TC2	PC	GC	I
INDUSTRIAL USES (Cont.)									
Junk Yard	N	N	N	N	N	N	N	N	SE
Liquid Fuel Storage, Bulk for Off-Site Use, other than for company vehicles based on-site	N	N	N	N	N	N	N	N	N
Manufacture and/or bulk processing of the following, provided manufacturing occurs only indoors:									
- Agricultural Chemicals, Fertilizers or Pesticides	N	N	N	N	N	N	N	N	SE
- Apparel, Textiles, Shoes & Apparel Accessories	N	N	N	N	N	N	N	N	P
- Cement, actual manufacture of	N	N	N	N	N	N	N	N	N
- Cement, Gypsum, Concrete or Plaster Products, other than actual manufacture of cement	N	N	N	N	N	N	N	N	SE
- Ceramics Products	N	N	N	N	N****	N****	P	P	P
- Chemicals, Bulk Manufacture or Bulk Storage of Highly Hazardous or Toxic Chemicals	N	N	N	N	N	N	N	N	N
- Chemical Products that are not highly hazardous or toxic, other than fertilizers or pesticides	N	N	N	N	N	N	N	N	SE
- Clay and Pottery Products	N	N	N	N	N****	N*****	P	P	P
- Coke or Potash Work, including Coke Oven	N	N	N	N	N	N	N	N	N
- Creosote, including Treatment with	N	N	N	N	N	N	N	N	N
- Electrical & Electronic Machines, Supplies & Equipment	N	N	N	N	N	N	P	P	P
- Explosives, Fireworks, Ammunition or Gunpowder, or bulk storage of (except government-owned facility)	N	N	N	N	N	N	N	N	N
- Fabricated Metal Products (except Ammunition or Explosives)	N	N	N	N	N	N	N	N	P
- Food Products, bulk manufacture (not including uses listed individually in this table, such as Catering)	N	N	N	N	N****	N****	P	P	P

*** = See additional requirements for the TC2 district in Section 306.C.

**** = See also Custom crafts and artisan's studios, which are listed separately in this table.

P = Permitted by right (zoning decision by Zoning Officer)

SE = Special exception use (zoning decision by Zoning Hearing Board)

N = Not Permitted

TYPES OF USES (See definitions in Article II)	SFR	TR	GR	AC	TC1	TC2	PC	GC	I
Manufacture and/or bulk processing of the following, provided manufacturing occurs only indoors:									
- Furniture and Wood Products (not including raw paper pulp)	N	N	N	N	N****	N****	P	P	P
- Glass and Glass Products	N	N	N	N	N****	N****	P	P	P
- Incineration, Reduction, Distillation, Storage or Dumping of Slaughterhouse Refuse, Rancid Fats, Garbage, Bones, Dead Animals or Offal	N	N	N	N	N	N	N	N	N
- Jewelry and Optical Goods	N	N	N	N	N****	N****	P	P	P
- Leather Products	N	N	N	N	N****	N****	N	N	P
- Manufactured or Modular Housing	N	N	N	N	N	N	N	N	P
- Metal Products, Primary	N	N	N	N	N	N	N	N	SE
- Microelectronic Components	N	N	N	N	N	N	P	P	P
- Paper and Cardboard Products (not including manufacture of paper pulp)	N	N	N	N	N	N	N	N	P
- Paper, Raw or Paper Pulp	N	N	N	N	N	N	N	N	N
- Paving or Roofing Materials, other than bulk manufacture of asphalt	N	N	N	N	N	N	N	N	SE
- Petroleum or Kerosene Refining or Distillation	N	N	N	N	N	N	N	N	N
- Pharmaceuticals	N	N	N	N	N	N	N	N	P
- Plastics, Polymers, Resins or Vinyl	N	N	N	N	N	N	N	N	SE
- Products from Previously Manufactured Materials, such as glass, leather, plastics, cellophane, textiles, rubber or synthetic rubber	N	N	N	N	N****	N****	N	N	P
- Rubber, Natural or Synthetic	N	N	N	N	N	N	N	N	SE
- Scientific, Electronic and Other Precision Instruments	N	N	N	N	N	N	P	P	P
- Soaps, Detergents, Paints, Varnishes or Enamels	N	N	N	N	N	N	N	N	SE
- Tar, including tar distillation	N	N	N	N	N	N	N	N	N
- Tire Retreading	N	N	N	N	N	N	N	N	SE
- Transportation Equipment	N	N	N	N	N	N	N	N	P

*** = See additional requirements for the TC2 district in Section 306.C.

**** See also Custom crafts and artisan's studios, which are listed separately in this table.

P = Permitted by right (zoning decision by Zoning Officer)

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N = Not Permitted

TYPES OF USES (See definitions in Article II)	SFR	TR	GR	AC	TC1	TC2	PC	GC	I
INDUSTRIAL USES (cont.)									
Packaging as a principal industrial use	N	N	N	N	N	N	P	P	P
Package Delivery Services Center	N	N	N	N	N*	N	P	P	P
* Other than a routine drop-off center, which is permitted by right.									
Photo Processing, Bulk	N	N	N	N	N	N	P	P	P
Printing or Bookbinding	N	N	N	N	N	N	P	P	P
Recycling Collection Center	N	N	N	N	N	N	P	P	P
Recycling Center, Bulk or Industrial (other than a solid waste disposal or transfer facility)	N	N	N	N	N	N	N	N	SE
Research and Development, Engineering or Testing Facility or Laboratory, not involving manufacture of toxic substances	N	N	N	N	N	N	P	P	P
Sawmill/ Planing Mill	N	N	N	N	N	N	N	N	P
Self-Storage Development	N	N	N	N	N	N	P	P	P
Slaughterhouse or Stockyard	N	N	N	N	N	N	N	N	N
Solid Waste to Energy Plant	N	N	N	N	N	N	N	N	N
Solid Waste Transfer Facility	N	N	N	N	N	N	N	N	SE
Trucking Company Terminal	N	N	N	N	N	N	N	N	P
Warehousing as a principal use (other than trucking co. terminal)	N	N	N	N	N	N	N	N	P
Welding Shop	N	N	N	N	N	N	N	P	P
Wholesale Sales	N	N	N	N	N	N	N	P	P
All Uses that would have a serious threat of being unable to comply with the performance standards of this ordinance, especially including the "Environmental Protection" requirements of Article V	N	N	N	N	N	N	N	N	N

*** = See additional requirements for the TC2 district in Section 306.C.
P = Permitted by right (zoning decision by Zoning Officer)
SE = Special exception use (zoning decision by Zoning Hearing Board)
N = Not Permitted

TYPES OF USES (See definitions in Article II)	SFR	TR	GR	AC	TC1	TC2	PC	GC	I
<u>PUBLIC/SEMI-PUBLIC</u>									
Borough-Owned Uses for governmental, utility, public safety or recreation purposes	P	P	P	P	P	P	P	P	P
Emergency Services Station	SE	SE	SE	SE	SE	SE	SE	SE	SE
Nature Preserve	P	P	P	P	P	P	P	P	P
Publicly-Owned Recreation	P	P	P	P	P	P	P	P	P
Public Utility Facility, other than Borough-owned facilities, facilities exempted by Section 103 or facilities permitted as "Essential Services" in Section 202	N	N	N	N	SE	N	SE	SE	SE
Swimming Pool, Non-household	SE	SE	SE	SE	P	SE	P	P	P
U.S. Postal Service Facility	P	P	P	P	P	P	P	P	P
<u>MISCELLANEOUS</u>									
Any Principal Use not Specifically Listed in this Section 306 (Except as permitted by Section 105 for uses that are similar to permitted uses)	N	N	N	N	N	N	N	N	N
<u>ACCESSORY USES</u>									
Accessory Apartment, Total of 1, as an accessory use to an existing Single Family Detached Dwelling	P	P	P	P	P	P	P	P	P
Day Care Center accessory to a Place of Worship, with a minimum lot area of 20,000 square feet in a residential district	P	P	P	P	P	P	P	P	P
Dormitory accessory to a permitted Primary or Secondary School or College or University	N	N	N	P	N	N	N	N	N
Home Occupation	P	P	P	P	P	P	P	P	P
See also accessory structures in Section 202.									

*** = See additional requirements for the TC2 district in Section 306.C.

* = Provided the lot abuts an arterial street (such as Main Street).

P = Permitted by right (zoning decision by Zoning Officer)

SE = Special exception use (zoning decision by Zoning Hearing Board)

N = Not Permitted

306.C. Additional Requirements for a Commercial Use in a TC2 District. The following additional requirements shall apply for any commercial use in a TC2 District on lots of less than 1 acre (see Section 306.E. for lots of 1 acre or more):

1. the lot or business use, whichever is more restrictive, shall include a total maximum of 1,200 square feet of total floor area of all business uses, except the total of all such uses plus accessory business storage areas may total a maximum of 2,000 square feet of total floor area;
2. shall be limited to within buildings that existed prior to January 1, 1993, without any building additions, except for such building additions clearly needed only for fire safety or handicapped accessibility;
3. between 9 p.m. and 7:30 a.m., the use shall not be open to the public and shall not have operations that are perceptible from a dwelling on another lot;
4. signs - See Article VII;
5. the use shall not include any internally illuminated sign or any exterior lighting beyond what is customary in a residential area;
6. shall not include any use listed as prohibited in Section 306.B., any drive-thru facilities, or any adult use;
7. no business use shall be permitted if it would result in the demolition of a contributing building within the Historic District, as determined by the Historical Architectural Review Board;
8. within the Historic District, see the provisions of Article IX of this Ordinance which generally requires all signs and exterior building alterations visible from a street or dwelling to be reviewed by the Historic Architectural Review Board and approved by Borough Council;
9. the use shall have a maximum of 6 employees on the lot at any point in time, except that the Zoning Hearing Board may permit a maximum of 8 employees as a special exception; and
10. the use may be established in combination with 1 dwelling unit, or in combination with any dwelling units that lawfully existed at the time of adoption of this Ordinance.

306.D. Additional Requirements - See the following sections:

1. **Off-Street Parking - Article VI (including paved area setbacks in Section 603)**
2. **Signs - Article VII**
3. **Buffer Yards - Section 802.C.**
4. **Environmental Protection - Article V**
5. **Temporary Structures - Section 805**
6. **Site Plan Review for certain uses - Section 116**

306.E. Additional Requirements for a Commercial Use in a TC2 District on a Lot of 1 Acre or Larger.

1. the lot shall have a maximum building coverage of 20 percent;
2. the use shall not include any internally illuminated sign or any exterior lighting beyond what is customary in a residential area;
3. the lot shall not include any use listed as prohibited in Section 306.B., any drive-thru facilities, any adult use or any motorcycle or auto parts sales store (other than non-mechanical accessories);
4. no business use shall be permitted if it would result in the demolition of a contributing building within the Historic District, as determined by the Historical Architectural Review Board; and

5. within the Historic District, see the provisions of Article IX of this Ordinance which generally requires all signs and exterior building alterations visible from a street or dwelling to be reviewed by the Historic Architectural Review Board and approved by Borough Council.

307. AREA AND SETBACK REQUIREMENTS BY DISTRICT.

307.A. The following area and building requirements shall apply for the specified zoning district, unless a more restrictive requirement for a specific use is required by Article II or another section of this Ordinance. All measurements shall be in feet unless otherwise stated.

Zoning District: Type of Use (See Definitions of Terms in Article II)	Min. Lot Area (sq.ft.)	Min. Lot Width	Max. Building Coverage	Min. Average Lot Area per Dwelling Unit (Note A) (sq.ft.)
SFR: Any permitted use, except for a "Mixed Residential Development" the provisions of Section 307.B. shall apply instead of the provisions of this table.	7,500	75 Dwellings shall have a minimum building width of 20 feet.	50%	----
TR: a) Single family detached dwelling b) Single family semi-detached dwelling (twin) c) Other permitted use	a) 5,000 b) 4,000 per tract c) 5,000	a) 50 b) 40 per dwelling unit c) 50	60%	a) ---- b) 5,000 c) 4,000
GR: a) Single family detached dwelling b) Single family semi-detached dwelling (twin) c) Townhouse d) Permitted apartments e) Other permitted use	a) 5,000 b) 8,000 per tract c) 10,000 per tract d) 15,000 per tract e) 5,000	a) 50 b) 30 per dwelling unit c) See "Dwellings, Townhouses" in Section 202 d) 100 e) 100	70%	a) ---- b) 4,000 c) 3,500 d) 3,500, except 2,000 for units permanently limited to persons age 60 and over or the physically handicapped e) 3,500
AC: a) Permitted types of dwelling units b) Other permitted use.	a) within the requirements of the GR district b) may be subdivided into 5,000 per lot, provided that tract includes more than 5 acres	a) within the requirements of the GR district b) 60	70%	a) within the requirements of the GR district b) 4,000, except 2,000 for units permanently limited to persons age 60 and over and/or the physically handicapped
GC: Any permitted use - may include more than 1 principal use per lot	9,375	75	70%	4,000, except 2,000 for units permanently limited to persons age 60 and over and/or the physically handicapped

Zoning District: Type of Use (See Definitions of Terms in Article II)	Min. Lot Area (sq.ft.)	Min. Lot Width	Max. Building Coverage	Min. Average Lot Area per Dwelling Unit (Note A) (sq.ft.)
PC: Any permitted use - may include more than 1 principal use per lot	18,750	150	70%	4,000
TC1 and TC2: a) Permitted primarily residential use b) Other permitted use May include more than 1 principal use per lot. See Section 306.C. for additional regulations for permitted commercial uses in the TC2 district.	a) 2,000 per dwelling unit b) 1,000	18	90%	1,500
I: Any permitted use. May include more than 1 principal use per lot.	20,000	100	70%	----

(Note A) = This calculation shall involve dividing the total lot area of all lots in the proposed development and dividing that total lot area by the number in the column below to determine the number of dwelling units permitted. Therefore, areas of a lot intended to be used for common open space, stormwater detention basins, buffer yards, common parking areas or other similar features may be counted in the total lot area for the purposes of determining density. The creation of condominium units is specifically permitted - each lot of each townhouse or apartment dwelling unit is not required to have its own lot of any particular size.

Abbreviations: sq. ft. = square feet
min. = minimum
max. = maximum.

307.B. The following setback and yard requirements shall apply for principal structures in the specified zoning district, unless a more restrictive requirement for a specific use is required by Article II or another section of this Ordinance. All measurements shall be in feet unless otherwise stated.

<u>District</u>	<u>Minimum Yard and Setback Requirements for Principal Structures</u>
SFR	15 feet front yard (5 feet of which may include an unenclosed front porch); 25 feet rear yard; 10 feet side yard.
TR	15 feet front yard (10 feet of which may include an unenclosed front porch); 25 feet rear yard; 10 feet side yard.

GR 20 feet front yard (10 feet of which may include an unenclosed front porch); 25 feet rear yard; 5 feet side yard;
except that any newly constructed townhouse or apartment building shall be setback a minimum of 50 feet from an abutting lot line of a single family detached dwelling that existed at the time of adoption of this Ordinance.

AC Any permitted dwelling unit: the same setbacks shall apply as are listed for the GR district.

Any other permitted use: 25 feet front yard; 20 feet rear yard; 20 feet side yard;
except that non-residential principal buildings and dormitories shall be setback a minimum of 50 feet from an abutting lot line of an existing dwelling that is not owned by an institution.

GC 20 feet front yard, 15 feet rear yard, 10 feet side yard;
except that any principal commercial building shall be setback a minimum of 50 feet from any abutting lot lines of an existing single family detached dwelling or single family semi-detached (twin) dwelling.

PC 30 feet front yard, 10 feet rear yard, 10 feet side yard;
except that any principal commercial building shall be setback a minimum of 50 feet from any abutting lot line(s) of an existing single family detached dwelling or single family semi-detached (twin) dwelling.

TC1 & TC2 Any permitted primarily residential use:
a) 0 feet front yard, except that a front yard setback of 10 feet shall apply (which may include an unenclosed front porch) if existing principal buildings on abutting lots on each side are setback 10 feet or greater;
b) 25 feet rear yard;
c) 5 feet side yard.

Any other permitted use:
a) 0 feet front yard, except that a front yard setback of 10 feet shall apply (which may include an unenclosed front porch) if existing principal buildings on abutting lots on each side are setback 10 feet or greater;
b) 0 feet rear yard and 0 feet side yard, except that a 5 feet side yard requirement shall apply a principal non-residential building from any abutting lot line(s) of an existing single family detached or single family semi-detached dwelling.

I 25 feet front yard; 10 feet rear yard; 15 feet side yard;
except a minimum setback of 40 feet shall apply for any non-residential building from any abutting lot line(s) of an existing single family detached or single family semi-detached dwelling.

307.C. Accessory Structure Setbacks In All Districts

1. A permitted detached residential accessory structure may have a minimum side and rear setback of 3 feet, except for fences which may be upon a lot line, and except as follows:
 - a) if such structure has a floor area of 600 square feet or greater, it shall have a minimum side yard setback of 10 feet from an abutting lot line of an existing single family detached dwelling;
 - b) a side or rear yard setback (other than abutting a street or alley) for such an accessory structure may be waived if all owners of record of lots abutting the subject lot line sign a notarized written, dated letter agreeing to such action;
 - c) a 0 feet minimum setback shall apply for an accessory structure along a lotline along which the principal buildings are attached, provided that the structure does not obstruct safe sight distance along a street or alley.
2. Any other structure that is accessory to a non-residential use shall have a minimum setback of:
 - a) 10 feet from any abutting lot line of an existing single family detached dwelling or single family semi-detached dwelling or undeveloped residentially zoned land; and
 - b) 5 feet from any other lot line, unless a less restrictive setback is permitted in the applicable district regulations for a principal building with the same type of use.
3. See also "Accessory Structure" provisions in Article II.
4. An accessory building shall not be placed within a required front yard setback.

307.D. Mixed Residential Development. Where permitted in the SFR District, a Mixed Residential Development shall meet the following additional requirements:

1. The development shall meet the requirements for such use stated in Section 306.
2. The development shall not exceed a total maximum of 10 dwelling units per acre, based upon the average of the entire tract.
3. Each individual dwelling unit, at an absolute minimum, shall meet the same requirements as would apply in the GR district.
4. The development shall be on a minimum tract of 3 acres that abuts existing low-rise apartments or townhouses.
5. Any proposed apartments and/or any parking lot of 5 or more parking spaces within 100 feet of a single family detached dwelling that existed prior to January 1, 1993 on an abutting lot shall be separated from such single family detached dwelling by a buffer with evergreen screening meeting the requirements of Section 802.C.

308. HEIGHT. All districts shall have a maximum height for buildings of 2.5 stories or 35 feet, whichever is more restrictive, except as follows:

- A. within the TC1 district, the maximum height for buildings shall be 4 stories or 50 feet;
- B. unless specifically stated otherwise in this Ordinance for a specific use;
- C. the maximum building heights shall not apply to the following structures: farm silos and associated agricultural structures, communications towers, antennae, water towers, clock or bell towers, steeples of places of worship, electrical transmission lines, elevator shafts, windmills, chimneys and similar appurtenances customarily placed above the roof level and not intended for human occupancy;
- D. for residential accessory structures on lots of less than 1 acre, the maximum height shall be 1.5 stories or 25 feet, whichever is more restrictive.

ARTICLE IV

RESERVED FOR FUTURE USE

ARTICLE V

ENVIRONMENTAL PROTECTION

501. **PERFORMANCE STANDARD INFORMATION.** If the Zoning Officer has reason to believe that the proposed use may have difficulty complying with the standards of this Article, then the Zoning Officer may require an applicant to provide written descriptions of proposed machinery, hazardous substances, operations and safeguards.

502. **NUISANCES AND HAZARDS TO PUBLIC SAFETY.**

502.A. No land owner, tenant nor leasee shall use or allow to be used land or structures in a way that seriously threatens to or creates any of the following conditions:

1. Communicable disease or other public health hazards, including activities that encourage the breeding of disease-prone insects or rodents.
2. Significant physical hazards to the public, especially hazards that would be easily accessible by small children.
3. Activity that prevents a neighboring landowner of ordinary sensitivities from making reasonable use of his/her property.
4. Activity that creates a significant hazard to public health and safety because of serious explosive, fire, biological, biogenetic or toxic hazards. (See Section 506 "Storage of Hazardous and Explosive Substances.")
5. Activity that causes serious pollution to groundwaters or surface waters.

502.B. It is the responsibility of every property owner to ensure that his/her property does not threaten public health or safety, and to remove or alter any structure or situation that threatens the public health and safety. This includes, but is not limited to structurally unsound structures, including those damaged by fire. See also the Borough Nuisance Ordinance.

502.C. **Borough Removal of Hazards.** If the Zoning Officer becomes aware of a serious threat to the public health and safety, the Zoning Officer may, but is not required to, order the property owner to resolve the hazard. If the hazard is not resolved within a reasonable specified period of time after such notice, the Borough may, at the option of Borough Council, remove the hazard or contract for its removal. In such case, the property owner shall be required to compensate the Borough for all such expenses for such work and any reasonable accompanying legal and administrative costs. However, the Borough does not take responsibility for identifying or removing all hazards.

503. **WETLANDS.**

503.A. If the Zoning Officer or the Borough Engineer has reason to believe that a portion of a site proposed to be altered may possibly meet the State or Federal definitions of a "wetland", the Zoning Officer may require the applicant to provide a study by a qualified professional delineating the locations of wetlands. However, the Borough accepts no responsibility to identify all wetlands or to warn all parties of such possibilities.

503.B. All permits of the Borough are issued on the condition that the applicant comply with Federal and State wetlands regulations, and such permits may be revoked by the Zoning Officer for non-compliance with such regulations.

504. **SETBACK FROM JOHNSTON'S RUN.**

504.A. Purpose. To protect the water quality of surface waters, preserve physical access to surface waters in case of future public acquisition, minimize erosion and sedimentation, preserve the natural stormwater drainage system of the area, conserve sensitive wildlife and aquatic habitats, preserve vegetation along waterways that will help screen out eroded soil and other pollutants and provide for setbacks that can be used as required yard areas for a use.

504.B. Setback From Johnston's Run. No building or paved area (other than approved street and driveway crossings) shall be located within 30 feet of the center of Johnston's Run creek. See the Borough floodplain map in case a wider area is regulated for buildings under the floodplain regulations.

504.C. Exemption. The setbacks of this Section shall not apply to public utility facilities or publicly-owned recreational facilities.

504.D. Setback Areas and Construction. During any filling, grading or construction activity, all reasonable efforts shall be made to leave the setback areas of this section undisturbed, except at approved waterway crossings.

505. **STEEP SLOPES.** Any alteration of non-man-made slopes over 15 percent shall require the submission of a soil and erosion control plan. The Zoning Officer may require such plan to be submitted for acceptance by the County Soil Conservation District. Compliance with such plan shall automatically be a condition of any permit issued by the Borough.

506. **STORAGE OF EXPLOSIVE AND HAZARDOUS SUBSTANCES.**

506.A. Near Residences. No aboveground or surface storage of potentially explosive or hazardous liquids, gases or chemicals in any quantity in excess of 250 cubic feet in volume shall be stored or maintained within 150 feet of an abutting dwelling, except for the following and closely similar substances for on-lot use: building heating fuels, fire suppression chemicals, fertilizers, janitorial chemicals and printing supplies.

506.B. Waterways.

1. No substance shall be stored in such a way that it could be washed into the groundwater or surface water, if such substance could seriously contaminate groundwater or surface water or serious harm aquatic life of a waterway.
2. If a substance threatens groundwater or surface water contamination, it shall be stored within an impermeable containment. Such storage shall be surrounded if needed by a berm that would drain any spilled substance to a engineered collection area, or other method that the applicant proves is safe.

506.C. Toxic, biological, electrical and other significant hazards involving stationary outdoor machinery and storage shall be marked with signs.

507. **SEWAGE DISPOSAL.** All methods of wastewater disposal shall meet requirements of DER, the Borough and the Official Borough Sewage Facilities Plan, as amended, as applicable.

508. **NOISE.**

508.A. No use shall generate a sound level exceeding the limits established in the table below, when measured at the specified locations:

Sound Level Limits by Receiving Land Use/ District

LAND USE OR ZONING DISTRICT RECEIVING THE NOISE	HOURS/ DAYS	MAXIMUM SOUND LEVEL
10 feet inside a Residentially Zoned Lot	1) 7 a.m. to 9 p.m. other than Sundays, Christmas Day, Thanksgiving Day, New Years Day, 4th of July, Labor Day and Memorial Day 2) 9 p.m. to 7 a.m. plus all day Sundays, Christmas Day, Thanksgiving Day, New Years Day, 4th of July, Labor Day and Memorial Day	1) 70 dBA 2) 65 dBA
10 feet inside an Industrially Zoned Lot	All times and days	79 dBA
10 feet inside any Lot Line Not Listed Above	All times and days	70 dBA

Note- dBA means "A" weighted decibel.

508.B. For any source of sound which emits a pure tone, the maximum sound level limits set forth in the above table shall be reduced by 5 dBA.

508.C. The maximum permissible sound level limits set forth in the above table shall not apply to any of the following noise sources:

1. Sound needed to alert people about an emergency.
2. Repair or installation of utilities or construction of structures, sidewalks or streets between the hours of 7 a.m. and 9 p.m., except for clearly emergency repairs which are not restricted by time.
3. Household power tools and lawnmowers between the hours of 8 a.m. and 9 p.m.
4. Agricultural activities, including permitted raising of livestock, but not exempting a commercial kennel.
5. Railroads and aircraft.
6. Public celebrations specifically authorized by the Borough Council or a County, State or Federal Government agency or body.
7. Unamplified human voices.
8. Routine ringing of bells and chimes by a place of worship or municipal clock.

509. **VIBRATION.** No use shall generate vibration that is perceptible to an average person through his/her senses, without the use of measuring instruments, on private property beyond the exterior lot line of the use generating the vibration. This requirement shall not apply to occasional non-routine blasting that may be necessary during construction of streets, structures and utilities.

510. ODORS, DUST AND AIR AND WATER POLLUTION.

- 510.A. **Odors and Dust.** No use shall generate odors or dust that are significantly offensive to persons of average sensitivities beyond the boundaries of the subject lot. This restriction shall not apply to odors or dust created by permitted agricultural uses that are using "normal farming practices" within: a) Act 133 of 1982, as amended, the State "Right to Farm Act" or b) an official Agricultural Security Area. This odor restriction shall apply to uses that do not follow the farming practices referenced in those State laws, such as if manure is not plowed under within a reasonable period of time.
- 510.B. **Air and Water Pollution.** All uses shall comply with Federal and State air and water pollution regulations as a condition of any Borough permit.

511. LIGHT, GLARE AND HEAT CONTROL.

- 511.A. **Street Lighting Exempted.** This Section 511 shall not apply to street lighting that is owned, financed or maintained by the Borough or the State.
- 511.B. All uses, signs and other sources shall be designed and operated to reasonably minimize: a) the heat or glare they generate beyond lot lines of such source and b) the light they generate at night onto adjacent dwellings.
- 511.C. **Height of Lights.** No luminaire, spotlight or other light source that is within 200 feet of a dwelling or residential district shall be placed at a height exceeding 35 feet above the average surrounding ground level. This limitation shall neither apply to lights needed for air safety nor lights intended solely to illuminate an architectural feature of a building.
- 511.D. **Diffusion and Shielding.** All light sources, including signs, shall be properly diffused as needed with a translucent or similar cover to prevent exposed bulbs from being directly visible from streets, public sidewalks, dwellings or adjacent lots. All light sources, including signs, shall be shielded around the light source and carefully directed and placed to prevent the lighting from creating a nuisance to reasonable persons in adjacent dwellings or undeveloped residentially-zoned areas, and to prevent the lighting from shining into the eyes of passing motorists.
- 511.E. **Flickering.** Flashing, flickering or strobe lighting is prohibited, except for non-advertising seasonal lights between October 25th and January 10th.

512. **EROSION CONTROL.** All Borough permits are granted on the condition that State erosion and sedimentation regulations and any officially submitted erosion and sedimentation plan are complied with. The Zoning Officer may require the submittal of an erosion and sedimentation control plan wherever soil will be disturbed. Failure to comply with such regulations or plan shall be cause for suspension of Borough permits.

513. PLACEMENT AND SCREENING OF WASTE CONTAINERS AND OUTDOOR MACHINERY; FENCING OF STORAGE.

- 513.A. **Placement.** Whenever reasonable, commercial, industrial and institutional outdoor machinery that could create a noise nuisance shall be placed towards a side of a building that does not face an abutting existing dwelling, residential district, school or other noise sensitive use.

513.B. Solid Waste Containers.

1. **Screening.** All trash dumpsters shall be screened on 3 of 4 sides (not including the side it is to be emptied from) as needed to screen the dumpster from view from public streets or dwellings on abutting lots. A solid wooden fence, brick wall, evergreen plants or structure designed to be architecturally compatible with the principal building shall be used for such screening.
2. **Setback from Dwellings.** If physically possible, any solid waste container with a capacity of over 15 cubic feet shall be kept a minimum of 15 feet from any window or door of a dwelling unit on an abutting lot.
3. **Food Sales.** Any use that involves the sale of ready-to-eat food for consumption outside of a building shall provide and maintain adequate outdoor solid waste receptacles at convenient locations on the property for customer use.

513.C. Fencing of Outdoor Storage and Machinery. The following shall be secured by fencing or walls that are reasonably adequate to make it extremely difficult for small children to enter:

1. outdoor industrial storage areas involving storage covering more than 5,000 square feet of land,
2. stationary hazardous machinery and equipment that is outdoors and
3. outdoor bulk aboveground or surface storage of potentially explosive or hazardous liquids, gases or substances.

514. RADIOACTIVITY AND ELECTRICAL DISTURBANCES. No use shall routinely cause electrical, radio or electromagnetic disturbances to equipment on other lots. No radioactive wastes shall be disposed of in any district.

515. FLOOD-PRONE AREAS.

515.A. Purposes. To prevent loss of life and destruction and damage of property; to avoid government expenditure for flood protection, rescues and reconstruction; to avoid public health and safety hazards; to avoid increases in flood levels and velocities; and to reduce the numbers of persons unknowingly investing in land or new structures that are prone to flooding.

515.B. Floodplain Applicability. The regulations of this Section shall apply throughout the entire Borough as "overlay" zoning regulations that supplement the zoning district regulations. Where the regulations of this Section differ from the regulations of any other section of this Ordinance, the provision that is more restrictive on development shall apply. See the "Liability" section in Article I.

515.C. Description of Floodplain Areas. For the purposes of this Article, the "100 Year Floodplain" shall be those areas identified as "Special Flood Hazard Areas Inundated by 100 Year Flood" on the latest version of the official Flood Insurance Study for the Borough as issued by the U.S. Federal Emergency Management Agency or its successor agency - which shall hereafter be referred to as the "Federal Floodplain Study." As of 1993, the latest official version was dated July 15, 1992. The 100 Year Floodplain shall consist of both a 100 Year Floodway and a 100 Year Flood-Fringe (although as of 1993, the distinction between such areas has not been mapped).

1. **Floodway** - shall mean the channel of a stream plus any adjacent portions of the 100 Year Floodplain that must be kept free of encroachment in order to prevent the increase of floodlevels by more than 1 foot.

2. Flood-Fringe - shall mean portions of the 100 Year Floodplain that are not within the 100 Year Floodway.
3. Floodplain Amendments. The Borough Council may officially amend the 100 Year Floodplain to account for man-made or natural changes, or to incorporate an updated Federal or State study or to accept an appropriate professional study that provides a detailed analysis of a specific segment of a waterway. However, any such official amendment of the official Floodplain Map requires prior approval of the Federal Insurance Administration or its successor agency.
4. Interpretation.
 - a. The Zoning Officer shall initially determine the location of the 100 Year Floodplain areas based upon the Federal Floodplain Study.
 - b. Where exact measurements do not exist, the boundaries of the 100 Year Floodplain areas shall be determined by scaling distances from the official Floodplain Map. The Zoning Officer may request the advice of the Borough Engineer.
 - c. The applicant may appeal such determination to the Zoning Hearing Board as a variance. In such case, the full burden of proof shall be on the applicant to prove that the determination of the Zoning Officer or the study being used is not accurate. See the standards for a professional floodplain study in part "515.D.4" below.
5. Definitions. For the purposes of this Ordinance, the following terms shall have the following meanings:
 - a. Development. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations. The term "development" shall also include but not be limited to the placement or development of a "mobile/manufactured home" (as defined below) on a lot.
 - b. Historic Structure. A structure that is:
 - 1) listed individually on the National or PA. Register of Historic Places or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register, or
 - 2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district, or
 - 3) individually listed on a local inventory of historic places under a program that has been certified by the PA. Historical and Museum Commission.
 - c. Mobile/Manufactured Home. Shall mean either: a) a structure, transportable in one or more sections, which is built on a permanent chasis and is designed for use with or without a permanent chasis and is designed for use with or without a permanent foundation when connected to the required utilities; or b) any recreational vehicle or travel trailer that is placed on a lot for more than 180 consecutive days.
 - d. Substantially Improved. See Section D.6.c.

515.D. Permitted and Prohibited Uses in the 100 Year Floodplain.

1. Prohibited Uses. Within the 100 Year Floodplain (except in areas that an applicant proves are not within the "100 Year Floodway), each of the following is prohibited:
 - a. construction, development, placement or extension of a structure that could inhibit the passage of 100 Year floodwaters or that could reduce the water capacity of a 100 Year Floodplain,
 - b. filling in or grading within the 100 year floodplain, other than minor finished grading or excavation that the applicant proves to the written satisfaction of the Borough Engineer will not result in a net reduction in the water carrying capacity of the floodplain,
 - c. redirections of a perennial waterway, other than stream improvements authorized by the PA. Fish and Boat Commission that are intended solely to improve aquatic habitats,
 - d. the development or expansion of any of the following buildings:
 - 1) manufactured/ mobile homes or manufactured/ mobile home parks,
 - 2) jails or prisons,
 - 3) nursing homes or hospitals,
 - 4) junkyards or solid waste disposal facilities,
 - 5) bulk manure storage,
 - 6) cemeteries or
 - 7) commercial forestry (other than routine thinning of woods).
 - e. storage of any of the following materials or items that would be:
 - 1) buoyant and not anchored or tied down or easily moved within the time available after a flood warning,
 - 2) toxic,
 - 3) highly hazardous,
 - 4) explosive or
 - 5) radioactive.
 - f. any new or substantially improved structure that will be used for the production or storage of any of the following substances or substances involving a similar degree of hazards or any use involving the maintenance of more than 550 gallons of any of the following substances:
 - 1) Acetone
 - 2) Ammonia
 - 3) Benzene
 - 4) Calcium Carbide
 - 5) Carbon disulfide
 - 6) Celluloid
 - 7) Chlorine
 - 8) Hydrochloric acid
 - 9) Hydrocyanic acid
 - 10) Magnesium
 - 11) Nitric acid and oxides of nitrogen

- 12) Petroleum products (such as gasoline and fuel oil)
- 13) Phosphorus
- 14) Potassium
- 15) Sodium
- 16) Sulphur and sulphur products
- 17) Pesticides (including insecticides, fungicides and rodenticides)
- 18) Radioactive substances, insofar as such substances are not otherwise regulated
- 19) Such other substances regulated as "hazardous" under Federal or State regulations that would represent a threat to water quality
- 20) For toxic substances - see "e." above.

2. Standards. Before any action affecting the 100 Year Floodplain occurs, the applicant shall prove to the written satisfaction of the Borough Engineer that:

- a. all applicable Borough, State and Federal requirements have been met and applicable permits have been granted,
- b. compensating improvements will be made to prevent any net increase in flood levels or adverse affects on flood velocities and drainage patterns,
- c. prior notice has been given of such proposal to: any municipalities that will be affected by a change in a alteration or relocation of a waterway has been given prior notice of such proposal, the PA. Department of Community Affairs and the U.S. Federal Emergency Management Agency, and
- d. no development will occur within the 100 year Floodway that would cause an increase in the 100 year flood elevations.

3. Permitted Uses. Permitted uses in the 100 year floodplain (except areas that an applicant proves are not within the 100 year floodway) shall be limited to the following uses and uses that the Zoning Officer are closely similar:

- a. nature preserves,
- b. plant nurseries,
- c. outdoor recreation uses,
- d. golf courses,
- e. parking areas,
- f. yard/ setback areas,
- g. parking areas (see setback from Johnston's Run in Section 504) and
- h. crop farming.
- i. bridges, culverts and similar structures that the applicant proves to the satisfaction of the Borough Engineer will:
 - 1) pass over the 100 Year Floodplain or
 - 2) carry stormwater within a Borough-approved stormwater improvement or
 - 3) float over floodwaters or
 - 4) allow 100 Year floodwaters to easily pass through the structure without causing debris to block the flood channel.

4. Flood-Fringe Areas. To avoid the application of the prohibition on construction of structures within the 100 Year Floodplain, an applicant may prove to the satisfaction of the Zoning Hearing Board as a special exception, based upon review by the Borough Engineer, that a particular portion of the 100 Year Floodplain is within the 100 Year Floodfringe and not within the 100 Year Floodway. Such proof shall be based upon a professional hydrological study. Such study shall:

- a. only be conducted by a professional engineer, licensed surveyor, registered landscape architect or hydrologist,
 - b. follow current accepted hydraulic technical methods and Federal standards,
 - c. provide sufficient analysis and computation information for the Borough Engineer to determine that such study is accurate.
5. Flood-Fringe. If a floodplain study provided for within the standards of part "4." above is accepted by the Zoning Hearing Board, then such study shall be used to define the areas within the 100 Year Floodway and 100 Year Floodfringe within the studied areas. Structures and additions to structures may then be permitted within the areas determined to be within the 100 Year Floodfringe. In such case, within those areas of the 100 Year Floodplain found not to be within the 100 Year Floodway, the following provisions may apply:
- a. all new buildings and all existing buildings that are "substantially improved", as specified in Section "6" below, shall be: 1) anchored to resist flotation, collapse and lateral movement and 2) fully floodproofed in compliance with this Ordinance and all Borough Building Codes. This shall include but not be limited to the following:
 - 1) The elevation of the lowest floor (including the basement) of any new or substantially improved residential structure shall be a minimum of 1.5 feet above the 100 year flood elevation. Enclosed areas below this lowest floor are prohibited.
 - 2) The elevation of the lowest floor (including the basement) of any new or substantially improved non-residential structure shall a) be a minimum of 1.5 feet above the 100 year flood elevation or b) be floodproofed up to that height.
 - a) Enclosed areas below this lowest floor (including the basement) are prohibited.
 - b) Such required floodproofing shall follow the standards for completely or essentially dry structures stated in the Army Corps of Engineers' "Flood-Proofing Regulations" publication or some equivalent standard acceptable to the Borough Engineer. The applicant shall ensure that plans for such floodproofing shall be certified by a professional engineer or architect - certifying that a building has been adequately designed to withstand the 100 Year Flood elevations, pressures, velocities, impact and uplift forces associated with a 100 Year Flood and that utility extensions have been designed to take the 100 year flood levels fully into account.
6. Existing Structures in Floodplains.
- a. Structures that existed prior to the adoption of this Section within the 100 Year Floodplain shall not be expanded or enlarged, except:
 - 1) if a professional floodplain study proves that the area is not within the 100 Year Floodway and the expansion meets the requirements for the 100 Year Flood-fringe or
 - 2) for upper story additions that are not "substantial improvements" and that do not decrease the water carrying capacity of the 100 Year Floodplain or
 - 3) if any negative effects on flood heights are fully offset by accompanying improvements.

b. Any modification, alteration, reconstruction or improvement to a structure that existed prior to the adoption of this Section within the 100 Year Floodplain that is equal in value to less than 50 percent of the structure's market value ** shall to the greatest extent possible be elevated and/or floodproofed.

c. Any modification, alteration, reconstruction or improvement to a structure that existed prior to the adoption of this Section within the 100 Year Floodplain that is equal in value to 50 percent or more of the structure's market value ** (which shall be considered to be "substantially improved") shall only occur in full compliance with the provisions of this Article.

** Based upon the value of the structure before the improvement or repair started and before any flood damage that may be being repaired.

d. Historic and Safety Exception. Parts "b" and "c" above shall not apply to improvements that are necessary to comply with a Borough, County or State health, safety or sanitary regulation or to historically rehabilitate and restore a "historic structure" (see definition above).

e. The applicant shall provide written information to the Zoning Officer on the lowest floor elevation of each structure approved within the 100 Year floodplain.

f. Basement shall be defined for the purposes of this Section as any area of a building having its floor below ground level on all sides.

7. Floodplain Variances.

a. A variance shall not be granted to the provisions of this Article if such variance would result in unacceptable increased flood heights or to increased threats to the public safety. Any variances to this Article shall be annually reported to the Federal Insurance Administration.

b. If a variance is granted to allow construction of a structure below the 100 Year Floodplain elevation, the applicant should be notified in writing by the Zoning Officer that such construction will likely result in increased premium rates for flood insurance, and that the applicant may be creating a risk to life and property, and that the applicant is completing such work at his/her own risk.

c. The variance shall be the minimum necessary to afford relief.

d. A variance shall not be granted for any development within the 100 Year Floodway that would cause an increase in the 100 year flood elevations.

ARTICLE VI OFF-STREET PARKING AND LOADING

601. REQUIRED NUMBER OF PARKING SPACES.

601.A. Overall Requirements.

1. **Number of Spaces.** Each use that is newly developed, enlarged, significantly changed in type or increased in number of establishments shall provide and maintain off-street parking spaces in accordance with Table 6.1 and the regulations of this Article.
2. **Uses Not Listed.** Uses not specifically listed in Table 6.1 shall comply with the requirements for the most similar use listed in Table 6.1, unless the applicant proves to the satisfaction of the Zoning Officer that an alternative standard should be used for that use.
3. **Multiple Uses.** Where a proposed lot contains or includes more than one type of use, the number of parking spaces required shall be the sum of the parking requirements for each separate use, except as may be allowed under Section 601.B.
4. **Calculation.** Where the calculation of required parking spaces does not result in a whole number, the calculation shall be rounded to the closest whole number.

601.B. Reduction of Parking Requirements by Special Exception

1. **Purposes.** To minimize impervious surfaces, while ensuring adequate parking; to recognize unique circumstances may justify a reduction in parking. To encourage the most efficient use of limited space through shared parking.
2. **The Zoning Hearing Board may permit a reduction, through the Special Exception process of Section 118, of the number of parking spaces required if the Applicant proves to the satisfaction of the Board that fewer parking spaces are needed.**
 - a. **Proof.** To prove that fewer parking spaces are needed, the applicant shall provide existing and projected employment, customer, resident or other relevant data. Such data may include a study of parking at similar developments during peak periods of use.
 - b. **Shared Parking.** Under this Section, an Applicant may seek to prove that parking shared with another use or on an adjacent lot with shared internal access will reduce the total amount of parking needed because the uses have different peak times of parking need or overlapping customers. Any shared parking using more than 1 lot shall be guaranteed through a long-term legally binding method acceptable to the Zoning Hearing Board Solicitor, such as an easement or lease.
 - c. **Reservation of Future Parking Areas.** If a reduction is permitted under this Section, the Board may require, as a condition of the special exception, that the lot include the reservation (permanently or for a specified number of years) of areas for use if needed in the future for additional parking.
 - i) Such reservation shall be provided in a legal form acceptable to the Zoning Hearing Board Solicitor. A legally binding deed restriction is recommended.

- ii) In such case, the Applicant shall be required to submit site plans to the Zoning Officer showing where and how the additional parking could be accomplished. Such future parking areas shall be designed to meet all Borough requirements, including stormwater runoff. Such future parking areas shall not be covered by buildings and shall be attractively landscaped unless needed for parking.
- iii) Such additional parking shall be required to be provided within 1 year by the owner of the lot at that time after the Zoning Officer may determine in writing to such owner that such parking has become needed to meet actual use. Such determination shall be based upon the Zoning Officer's on-site review on at least 3 different days.

TABLE 6.1
OFF-STREET PARKING REQUIREMENTS
(See definition of employee in Article II)

USE	NUMBER OF OFF-STREET PARKING SPACES REQUIRED	PLUS 1 OFF-STREET PARKING SPACE FOR EACH:
A. AGRICULTURAL USES:		
1. Kennel or Non-Household Stable	1 per employee	20 animals of capacity
2. Plant Nursery	1 per employee	250 sq. ft. of indoor sales floor area and 10,000 sq.ft. of outdoor sales area
3. Seasonal Sale of Agricultural Products	1 per non-resident employee	
B. RESIDENTIAL USES:		
1. Dwelling Unit	2 per dwelling unit, except 1 per 1 bedroom or efficiency apartment.	
2. Home Occupation	1 space plus spaces required for the dwelling unit(s), unless the applicant provides evidence to the Zoning Officer that the use will not routinely have on-site visitors	Non-Resident Employee
3. Housing Permanently Restricted to Persons 55 Years and Older and/or the Physically Handicapped	0.75 per dwelling/ rental unit	Non-Resident Employee
4. Boarding House	1 per rental unit	Non-Resident Employee
5. Group Home	1 per every 2 residents capable of driving a vehicle	Non-Resident Employee
C. INSTITUTIONAL USES:		
1. Place of Worship (includes Church)	1 per 4 seats in room of largest capacity	
2. Hospital	1 per 2 beds	Employee
3. Nursing Home or Personal Care Home	1 per 6 beds	Employee

USE	NUMBER OF OFF-STREET PARKING SPACES REQUIRED	PLUS 1 OFF-STREET PARKING SPACE FOR EACH:
4. Day Care Center, Adult or Child	1 per 10 persons cared for	Employee
5. School, Primary or Secondary	1 per 4 students aged 16 or older, unless such students are not permitted by the institution to have vehicles. Students and employees living in dormitories may be considered separately.	Employee
6. Utility Facility	Vehicle routinely needed to service facility	Employee
7. Dormitory	1 per 2 residents aged 16 or older, unless such residents are not permitted by the institution to have vehicles	Non-resident employee
8. College, University or Trade School	1 per 1.5 students not living on campus who attend class at peak times (plus required spaces for on-campus housing)	Employee
9. Library, Community Center or Cultural Center or Museum	1 per 4 seats (or 1 per 250 sq. ft. of floor area accessible to patrons if seats are not typically provided)	Employee
10. Treatment Center	1 per 2 residents aged 16 years or older	Non-Resident Employee
11. Swimming Pool, Non-Household	1 per each 4 swimmers of capacity	Employee
D. COMMERCIAL USES:	All commercial uses, as applicable, shall provide additional parking or storage needed for maximum number of vehicles stored, displayed or based at the lot at any point in time. These additional spaces are not required to meet the stall size and parking aisle width requirements of this Ordinance.	
1. Auto Service Station or Repair Garage	5 per repair/ service bay and 1/4 per fuel nozzle, plus any spaces required for retail sales	Employee
2. Auto, Boat, Recreational Vehicle or Manufactured Home Sales	1 per 15 vehicles, boats, RVs or homes displayed	Employee
3. Bed and Breakfast Use or Motel/Hotel	1 per rental unit, plus for a bed and breakfast use plus the 2 per dwelling unit, plus any parking needed for a restaurant open to non-guests	Non-resident employee
4. Car Wash	2 spaces per washing lane or stall, which may include waiting, drying or vacuuming areas	Employee

USE	NUMBER OF OFF-STREET PARKING SPACES REQUIRED	PLUS 1 OFF-STREET PARKING SPACE FOR EACH:
5. Financial Institution (includes bank); Personal Service Use; Indoor Recreation; Membership Club; Retail Sales	1 per 200 sq. ft. of indoor floor area accessible to customers/members	Employee
6. Offices or clinic, Medical/dental or veterinary	6 per physician, dentist, chiropractor or veterinarian	Employee
7. Offices, not including medical/dental offices	1 per 225 sq. ft. of total floor area accessible to people, minimum of 3 per establishment	
8. Outdoor Recreation	1 per 3 persons of capacity	Employee
9. Restaurant; Tavern; Nightclub	1 per 4 seats	1.5 Employees
10. Funeral Home	1 per 4 seats, based upon rooms intended to be in use at one time	1.5 Employees
11. Adult Use	1 per 30 sq. ft. of total floor area	Employee
12. Theater or Auditorium	1 per 5 seats	Employee
<u>E. INDUSTRIAL USES:</u> All industrial uses (including warehousing, distribution and manufacturing)	In addition to parking or storage needed for maximum number of vehicles stored, displayed or based at the lot at any point in time, which spaces are not required to meet the stall size and aisle width requirements of this Ordinance 1 per employee working on-site on peak shift	
Self-Storage Development	1 per 25 storage units	Employee

601.C. Town Center Exemption and Reduction. In recognition of the need to encourage reuse of building space in the downtown, and recognizing the availability of on-street parking, off-street parking shall:

1. not be required for uses within the TC1 or TC2 district, except off-street parking shall be required in the TC1 and TC2 districts for any net increase in the number of dwelling units or rooming house units.

602. GENERAL REGULATIONS FOR OFF-STREET PARKING.

602.A. General. Parking spaces and accessways shall be laid out to result in safe and orderly use, and to fully take into account all of the following: vehicular access onto and off the site, vehicular movement within the site, loading areas, pedestrian patterns and any drive-thru facilities. No parking area shall cause a safety hazard or impediment to traffic off the lot.

602.B. Existing Parking.

1. Structures and uses in existence at the effective date of this Ordinance shall not be required to add additional parking spaces for that existing structure or area of use to meet the requirements of this Article, except as provided in 602.C. below.
2. Any existing parking spaces serving structures or uses that exist at the time of adoption of this Ordinance shall not be reduced in number below the number required by this Ordinance, as long as the use or building to which the spaces serve continues to exist.

602.C. Change in Use or Expansion. A building or use shall include the total number of parking spaces that would be required if the entire pre-existing and proposed uses would be newly developed under this Article, instead of only being required to provide the additional uses for the change or expansion, if both of the following conditions would be met:

1. the principal use significantly changes in type or expands by a measure used in this Article to determine parking need (such as floor area, maximum number of employees, number of dwellings units or seating capacity), and
2. if such expansion or change would increase the number of required parking spaces from what would have been required for the previous use by at least 10 percent or 20 spaces, whichever is less.

602.D. Use of Parking and Loading Spaces. No required parking area or off-street loading spaces shall be used for any other use (such as storage or display of materials) that interferes with the spaces' availability for parking.

602.E. Location of Parking; Off-Site Parking. Required off-street parking spaces shall be on the same lot, or abutting lot in common ownership, with the principal use served, except:

1. if the applicant proves, to the satisfaction of the Zoning Officer, that the required parking spaces will be provided within 400 feet of the entrance of the principal use being served. In such case, the applicant shall prove such parking will be available through a long-term lease or other appropriate guaranteed legally-binding method during the entire time period such use or building will be in use.

602.F. Junk Vehicles. A "Junk Vehicle" (as defined by Article II) shall not be parked or stored on a lot outside of an enclosed building if such vehicle is visible from a street or dwelling, except as is permitted as part of a lawful junkyard, service station or auto repair use.

603. **DESIGN STANDARDS FOR OFF-STREET PARKING.**

603.A. General Requirements.

1. Access and Separation from Street.
 - a. No parking area shall be designed to require or encourage parked vehicles to back into a public street in order to leave a parking space, except for a single family or two-family dwelling that has its access onto a local or collector street or parking court.
 - b. All areas for off-street parking, off-street loading and unloading and the storage or movement of motor vehicles shall be physically separated from the street by a raised curb, planting strip, wall or other suitable barrier against unchanneled motor vehicle entrance or exit, except for necessary and approved vehicle entrances and exits to the lot.

- c. All commercial and industrial parking areas approved after the adoption of this Ordinance shall be separated from the street by a grass or landscaped strip of land. See Section 603.G.
- d. See Borough ordinances pertaining to sidewalks and streets.

- 2. Every required parking space shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without requiring the moving of any other vehicle, except for a single family, two-family or townhouse dwelling.
- 3. Parking areas shall not be within any of the following: a required buffer, an existing street right-of-way or a required paved area setback.
- 4. Defined Traffic Ways. In any lot with more than 30 off-street parking spaces, raised curbs and landscaped areas shall be used to direct traffic within the lot. Major vehicular routes shall be separated as much as is reasonable from major pedestrian routes within the lot.
- 5. Stacking. Each lot shall provide adequate area upon the lot to prevent back-up of vehicles on a public street while awaiting entry to the lot, or while waiting for service at a drive-thru facility.

603.B. Size and Marking of Parking Spaces. Each parking space shall be a rectangle with a minimum width of 9 feet and a minimum length of 18 feet, except:

- 1. For single family detached and single family semi-detached dwellings, each space shall be a rectangle of a minimum of 8 by 15 feet.
- 2. The minimum length shall be 22 feet for parallel parking.
- 3. All spaces on paved parking lots of over 30 spaces shall be marked to indicate their location.
- 4. If a parking area is permitted to not be paved, then a minimum width of 10 feet per space shall be used (see Section 603.E.2.).

603.C. Aisles.

- 1. Each aisle providing access to stalls for one-way traffic only shall be at least the minimum aisle width specified as follows:

Angle of Parking	Minimum Aisle Width
Parallel or 30 degrees	12 feet
45 degrees	14 feet
60 degrees	16 feet
90 degrees	18 feet

- 2. Each aisle providing access to stalls for two-way traffic shall be at least 24 feet in width, except a width of 20 feet may be allowed for:
 - a) areas of parking that are clearly primarily for employees or
 - b) parking areas with spaces that are parallel or involve an angle of parking of 45 degrees or less.
- 3. Maximum length of parking aisle- 250 feet.

603.D. Access Drives and Driveways.

1. Width of Driveway/Accessway at Entrance onto Public Street (at the edge of the cartway)*	1-Way Use	2-Way Use
Minimum	12 feet	20 feet
Maximum	35 feet	50 feet

* Unless a different standard is required by PennDOT for an entrance to a State road.

2. Sight Distance for Driveways. See SALDO.

603.E. Paving, Grading and Drainage.

1. Parking and loading facilities including driveways shall be graded and adequately drained to prevent erosion or excessive water flow across streets or adjoining properties. Adequate provisions shall be made to maintain uninterrupted parallel drainage along a public street at the point of driveway or access drive entry.
2. Except for landscaped areas, all portions of required parking, loading facilities and driveways shall be surfaced with asphalt, concrete, tar and chip or paving blocks or similar impervious surface that applicant proves to satisfaction of Zoning Officer is suitable, except that portions or all of parking areas may be left in grass or stones where the applicant proves to the full satisfaction of the Zoning Officer that:
 - a. the frequency and duration of the use of the parking area would not cause any need for paving and
 - b. dust will be adequately controlled on any stoned areas.

603.F. Lighting of Parking Areas. Any parking area of 10 or more spaces designed for use during night hours shall be adequately illuminated for security purposes at no cost to the Borough. See also Section 511 "Light, Glare and Heat Control."

603.G. Paved Area Setbacks (including Off-Street Parking Setbacks).

1. Intent. To ensure that parked or moving vehicles within a lot do not obstruct sight distance or interfere with pedestrian traffic, to aid in storm water management along streets and to prevent vehicles from entering or exiting a lot other than at approved driveways.
2. Uses Within the Paved Area Setback.
 - a. The paved area setback required by this section (together with any existing street right-of-way area that is not used as a cartway, street shoulder or on-street parking) shall be maintained in natural groundcover (such as grass) and shall not be used for any of the following: 1) paving, except for approved perpendicular driveway/ access drive crossings and except any brick or concrete sidewalks or asphalt bikepaths of 8 feet wide or less, 2) fences or 3) parking, storage or display of vehicles or items for sale or rent.
 - b. The paved area setback may include the following: 1) permitted freestanding signs, 2) storm water facilities that are not impervious, 3) concrete or brick sidewalks or asphalt bikepaths of 8 feet wide or less or 4) approved perpendicular driveway crossings.

3. A minimum paved area setback of 5 feet shall apply between the curblines of a street and any paved areas developed after the adoption of this Ordinance serving new townhouse, apartment or commercial or industrial developments.
4. Buffer Areas Between Uses. See Section 802.C.

603.H. Paved Area Landscaping.

1. Any lot that would include more than 20 parking spaces shall be required to provide landscaped areas within the paved area. A maximum of 15 consecutive and contiguous parking spaces in a row shall be allowed without being separated by a landscaped area.
2. One deciduous tree shall be required for every 3,000 square feet of paved area. This number of trees shall be in addition to any trees required by any other section of this Ordinance or by the Borough Subdivision and Land Development Ordinance.
3. Trees required by this section shall meet the following standards:
 - a. Type of Trees Permitted. Required trees shall be chosen from the following list of approved street trees, unless the applicant proves to the satisfaction of the Zoning Officer that another type of tree would shade paved areas, be attractive and be resistant to disease, road salt and air pollution.

TYPES OF DECIDUOUS TREES PERMITTED TO MEET ORDINANCE REQUIREMENTS

Acer rubrum - American Red Maple	Quercus borealis - Red Oak
Acer saccharum - Sugar Maple	Quercus coccinea - Scarlet Oak
Celtis occidentalis - Common Hackberry	Quercus macrocarpa - Bur Oak
Fagus sylvatica - European Beech	Quercus imbricaria - Shingle Oak
Fraxinus americana - White Ash	Quercus montana - Chestnut Oak
Fraxinus pennsylvanica - Green Ash	Quercus velutina - Black Oak
Ginkgo biloba fastigiata - Maiden Hair Tree (male only; female has noxious odor)	Quercus phellos - Willow Oak
Gleditsia triacanthos - Thornless Locust	Sophora japonica - Chinese Scholar Tree
Liriodendron tulipifera - Tulip Poplar	Tilia americana - American Linden
Quercus alba - White Oak	Tilia cordata - Little Leaf European Linden
Quercus acutissima - Sawtooth Oak	Tilia euchlora - Crimean Linden
	Tilia petiolaris - Silver Linden
	Zelkova serrata - Zelkova

Note- This Ordinance only regulates the species of trees that are used to meet requirements of the Borough. The species of trees that are not required by Borough ordinances are not regulated.

- b. Quality of Trees. Required trees shall be of symmetrical growth and free of insect pests and disease.
- c. Minimum Size. The trunk diameter (measured at a height of 1 foot above the finished grade level) shall be a minimum of 2 inches or greater.
- d. Planting and Maintenance. Required trees shall be:
 - i) planted in conformance with good landscaping practices, with adequate unpaved surface around each for water and air and
 - ii) properly protected by raised curbs, distance or other devices from damage from vehicles.

- e. A required tree shall not be removed without being replaced by another tree that meets the requirements of this section. Trees which have died or have become diseased or pest ridden shall be replaced by the property-owner within 180 days.

603.I. Handicapped Parking.

1. Number of Spaces. Any lot including 4 or more off-street parking spaces shall include a minimum of one handicapped space. The following number of handicapped spaces shall be provided, unless a revised regulation is officially established under the Federal Americans With Disabilities Act:

TOTAL NO. OF REQUIRED PARKING SPACES ON THE LOT	REQUIRED MINIMUM NO./ PERCENT OF HANDICAPPED PARKING SPACES
4 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of required number of spaces
1,001 or more	20 plus 1% of required number of spaces over 1,000

2. Location. Handicapped parking spaces shall be located where they would result in the shortest reasonable accessible distance to a handicapped accessible building entrance. Curb cuts shall be provided as needed to provide access from the handicapped spaces.
3. Minimum Size. Each required handicapped parking space shall be 8 by 18 feet. In addition, each space shall be adjacent to a 5 feet wide access aisle. Such access aisle may be shared by two handicapped spaces by being placed between them. However, 1 out of every 8 required handicapped parking spaces shall have an adjacent access aisle of 8 feet width instead of 5 feet.
4. Slope. Handicapped parking spaces shall be located in areas of less than 6 percent slope in any direction.
5. Marking. All required handicapped spaces shall be well-marked by clearly visible signs and/or pavement markings.

604. OFF-STREET LOADING.

604.A. General Requirements.

1. Each use shall provide off-street loading facilities, which meet the requirements of this Section, sufficient to accommodate the maximum demand generated by the use.
2. At the time of site plan or land development review, the applicant shall provide evidence to the Planning Commission, who may advise the Zoning Officer, on whether the use will have sufficient numbers and sizes of loading facilities. For the purposes of this Section, the words "loading" and "unloading" are used interchangeably.

604.B. Design and Layout of Loading Facilities. Off-street loading facilities shall meet the following requirements:

1. Each off-street loading space shall be at least (in feet):

Largest Type of Truck Intended	Minimum Width	Minimum Depth
Tractor-trailer	12	50
Trucks Other than tractor-trailers, pick-ups or vans	10	25
Pick-Up Truck or Van	9	18

2. Each space shall have sufficient maneuvering room located entirely on the lot being served to avoid conflicts with parking and traffic movements within and outside of the lot. No facility shall be designed or used in such a manner that it threatens a safety hazard, is a public nuisance or a serious impediment to traffic off the lot. Loading spaces and maneuvering areas shall not intrude into required buffer areas or paved area setbacks.
3. An appropriate means of access to a street shall be provided.
4. Paving, Grading and Drainage. See Section 603.E.

604.C. Fire Lanes. Fire lanes shall be provided where required by State or Federal regulations or other local ordinances. The specific locations of these lanes are subject to review by Borough Fire Officials.

ARTICLE VII SIGNS

701. APPLICABILITY.

- 701.A. Purposes. This Article is intended to: promote and maintain overall community beautification; establish reasonable time, place and manner regulations on the exercise of free speech, without regulating content; promote traffic safety by avoiding distractions and sight distance obstructions; protect property values and ensure compatibility with the character of neighboring existing and planned land uses; and assist in carrying out the goals of the Pennsylvania Outdoor Advertising Act, as amended.
- 701.B. Permit Required. A permit under this Ordinance shall be required for all signs except for: a) signs meeting the requirements of Section 703 and b) window signs that are not of a permanent nature. Only types, sizes and heights of signs that are specifically permitted by this Ordinance within the applicable District shall be allowed.
- 701.C. Changes on Signs. Any lawfully existing sign (including nonconforming signs) may be painted or repaired or changed in message without a new permit under this Ordinance provided that the changes do not increase the sign area or otherwise result in noncompliance or an increased non-conformity with this Ordinance.

702. NONCONFORMING SIGNS. Signs legally existing at the time of enactment of this Ordinance and which do not conform to the requirements of the Ordinance shall be considered nonconforming signs. Any nonconforming sign which is removed or destroyed shall be replaced only with a conforming sign, except as provided as follows:

1. If a non-conforming sign had been specifically approved by the Zoning Hearing Board, then it may be replaced by right with a similar non-conforming sign that is not greater in height or sign area.
2. The Zoning Hearing Board may by special exception allow the voluntary replacement of existing lawful nonconforming signs with new non-conforming signs, provided that the applicant proves to the satisfaction of the Zoning Hearing Board that all new signs would be significantly less nonconforming than the signs being replaced.

703. MISCELLANEOUS SIGNS NOT REQUIRING PERMITS. The following signs shall be permitted by right within all zoning districts within the following regulations, and shall not be required to have a permit under this Article, but shall be subject to the requirements of Article IX if located in the Historic District. A non-permanent sign that is not permitted by this Article may be removed by the Zoning Officer.

TYPE AND DEFINITION OF SIGNS NOT REQUIRING PERMITS	MAX. NO. OF SIGNS PER LOT	MAX. SIGN AREA PER SIDE OF EACH SIGN	OTHER REQUIREMENTS
<u>Agricultural Products Sign</u> - Advertises the sale of agricultural or livestock products clearly primarily produced or raised on the premises of a principal agricultural use, or the seasonal sale of Christmas trees.	2	10 sq. ft.	Shall only be posted during seasons when such products are actively offered for sale.
Directional Sign - signs providing information indicating traffic direction, entry or exit, loading or service area, directions to apartment numbers or parking courts in a development, fire lanes, parking or closely similar information regarding the same lot that the sign is on, and that do not include advertising.	No maximum.		
<u>Garage Sale or Real Estate Open House Sign</u> - advertises a garage sale/porch sale or auction or an open house of a property for sale.	3 per event	4 sq. ft. per sign	Shall be placed a max. of 72 hrs. before permitted garage sale or auction begins, and be removed max. of 24 hrs. after event ends.
<u>Identification Sign</u> - only identifies the name of the resident and/or the name, street address and/or use of a lot, but that does not include advertising.	1	2 sq. ft.	
<u>Official Sign</u> - posted within the existing right-of-way of a public street and officially authorized by the State, County, Borough or other legally constituted governmental body, or specifically authorized by Borough ordinance or resolution, and which exists for public purposes. this may also include signs memorializing a historic person or feature or event.	No max.	No max.	

TYPE AND DEFINITION OF SIGNS NOT REQUIRING PERMITS	MAX. NO. OF SIGNS PER LOT	MAX. SIGN AREA PER SIDE OF EACH SIGN	OTHER REQUIREMENTS
<u>Political Sign</u> - advertises a person or party seeking political office or a political cause or opinion on a referendum or matter of political concern and which relates to a scheduled election or matter of upcoming vote by a governmental body.	4	10 sq. ft. per sign	Shall be placed a max. of 120 days prior to election, vote or referendum and removed a max. of 14 days after such election, vote or referendum. If a political sign does not meet these requirements, then it shall be regulated as an "off-premises sign."
<u>Proposed Development Sign</u> - announces a proposed subdivision or land development for which a sketch, preliminary or final plan has been submitted to the Borough, and which would involve a minimum of 10 dwelling units or a nonresidential principal building.	1	20 sq. ft.	Shall only be placed after the submission of a sketch, preliminary or final subdivision or land development plan to the Borough, and shall be removed when any of the following occur: 1) if such plan is rejected or withdrawn, 2) for a residential development, when all of the approved units are sold or 3) for a nonresidential development, when a permanent sign is placed.
<u>Real Estate Sign</u> - advertises the availability of property on which the sign is located for sale, rent or lease.	1 per street the lot abuts	10 sq. ft.	Shall only be placed on the property while it is actively for sale, lease or rent, and shall be removed a max. of 7 days after settlement or start of lease.
<u>Temporary Signs.</u> Signs advertising a charitable event, work being done by a contractor on-site and closely similar signs that shall not be posted for a total of more than 60 days in any calendar year (other than contractor's signs posted for a longer period while work is actively underway).		20 sq. ft.	

TYPE AND DEFINITION OF SIGNS NOT REQUIRING PERMITS	MAX. NO. OF SIGNS PER LOT	MAX. SIGN AREA PER SIDE OF EACH SIGN	OTHER REQUIREMENTS
<p><u>Small Sign</u>- signs that:</p> <ul style="list-style-type: none"> - state the name of a recognized incorporated service organization or place of worship and that states the place and times of meetings or services and/or an arrow directing persons to such location, - that indicate trespassing is prohibited on a lot, - that only include information required to be posted outdoors by a government agency or the Borough, - that cannot be read by a person of normal eyesight from a public street or exterior lot line, or - that state the availability of restrooms, telephone or other similar public convenience. 		4 sq. ft.	

* Maximum sign areas are for each of 2 sides of each permitted sign, measured in square feet.

704. FREESTANDING, WALL AND WINDOW SIGNS.

704.A. The following are the signs permitted on a lot within the specified districts and within the following regulations. See definitions of the types of signs in Section 711.

ZONING DISTRICT OR TYPE OF USE	MAXIMUM HEIGHT OF FREE-STANDING AND PROJECTING SIGNS **	MAX. SIGN AREA (each of 2 sides) AND NUMBER OF FREE-STANDING SIGNS	MAX. SIGN AREA OF WALL AND PROJECTING SIGNS (see Section 704.B. for height of wall signs) (see Section 704.D. for "window signs")
<p>1. In a Residential District, other than the Historic District, for:</p> <p>a) permitted non-residential principal buildings (such as places of worship) or b) for developments of more than 15 rental dwelling units.</p> <p>Such signs shall not be internally illuminated.</p>	12 feet	Max. of 1 sign per street which the use abuts upon, with a max. sign area of 12 sq. ft. on each side of such sign.	Wall or projecting sign: Max. total of 20 sq. ft. of each of 2 faces. No sign shall project more than 3 feet from a building.
<p>2. In a Residential District- other than uses listed in row "1." above and other than the Historic District. Such signs shall not be internally illuminated.</p>	6 feet for freestanding sign; 10 feet for projecting sign.	Maximum of 4 square feet.	Shall not project more than 3 feet from a building. Total maximum of 1 freestanding, wall or projecting sign. Maximum of 4 square feet.
<p>3. In a Commercial District - not within the Historic District.</p>	20 feet	Max. of 1 sign per abutting public street, each with a max. area of 20 sq. ft. on each of 2 sides. ***	For projecting sign: maximum of 1 per building, with maximum of 12 sq. ft. per side, and which shall be not be internally illuminated. For wall signs: max. total of 20 sq. ft. per building face on up to 2 faces of a building.
<p>4. In the "Historic District."</p> <p>No sign in the Historic District shall be internally illuminated.</p> <p>See Section 905.A.</p>	10 feet	Max. of 1 freestanding sign, which shall not obstruct walkways and which shall only be allowed if within a landscaped area between the building and the street right-of-way. Such sign shall have a max. area of 10 sq. ft. on each of 2 sides.	For projecting sign: maximum of 1 per building, with maximum of 12 sq. ft. per side. For wall signs: total maximum of 12 sq. ft. per building face on up to 2 faces of a building.
<p>5. In the "I" District</p>	20 feet	Maximum of 1 sign per abutting public street, with a maximum of 20 sq. ft. on each of 2 sides.	The total of all wall and projecting signs shall not be greater than a total of 10% of the area of the building face on which each sign or set of signs is located, up to a maximum total of 50 sq. ft. per building face on up to 2 faces of a building.

** See definition of Sign Height in Section 711.

*** All freestanding signs abutting one street may together have a total maximum sign area of 80 square feet per side if the lot includes 6 or more separate and distinct retail, industrial and/or wholesale business establishments.

704.B. Height of Projecting and Wall Signs.

1. The maximum height of wall signs shall be equal to the total height of the building to which they are attached.
2. Projecting signs where permitted shall have a maximum height of 12 feet and a minimum clearance over a public sidewalk of 8 feet. The applicant shall prove to the satisfaction of the Zoning Officer that any projecting sign will be adequately secured to the building.

704.C. Signs on Mobile Stands.

1. Purpose. These standards recognize signs on mobile stands as a particular type of sign that has the characteristics of a temporary sign but that has been inappropriately used as a permanent sign. This Section is based on the policy that if a use desires to regularly display a sign for regularly changing messages, that it erect a permanent sign within all of the requirements of this Ordinance.
2. Definition of a "Sign on a Mobile Stand"- A freestanding sign that is attached to a chassis that allows it to be towed from one location to another, or that is designed to be transported on the back of a truck, and that has no permanent foundation.
3. A Sign on a Mobile Stand, including any such sign that may have been displayed prior to the adoption of this Ordinance and which does not have a lawful permit as a permanent sign, shall only be permitted if it meets all of the following requirements:
 - a. Shall be permitted only in the GC District.
 - b. Shall have a maximum sign area of 40 square feet on each of a maximum of two sides.
 - c. Shall only include 1 such sign per principal use or per lot, whichever is more restrictive.
 - d. Shall need a sign permit, which shall state the dates during which the sign may be displayed.
 - e. Shall only be displayed on a lot for one period per year, which shall not exceed 30 days.
 - f. Shall not obstruct safe sight distance to vehicles within or off the lot. Shall not be placed within the existing street right-of-way.
 - g. Shall not include flashing or blinking lights.

*Amended
by Ord. 293
6-4*

704.D. Window Signs.

1. Window signs which are constructed of paper or cardboard, which are not illuminated and which are placed in the interior of a building and which advertise goods or prices and which are designed to be changed on a periodic basis are not regulated by this Ordinance.
2. Other types of window signs that are readily visible and can be at least partially read from an exterior lot line and which are attached to a window or transparent door or that can be read through a window or transparent door shall be regulated as wall signs.

705. **ABANDONED OR OUTDATED SIGNS.** Signs advertising a use no longer in existence (other than a sign relating to a building that is clearly temporarily vacant and being offered to new tenants or for purchase) shall be removed within 180 days of the cessation of such use.

706. **LOCATION OF SIGNS.** The following shall regulate the location of signs:

706.A. **Setback From Streets.** No sign or portion thereof shall be erected within or project over any existing street right-of-way and/or a public sidewalk, except: Official Signs, Directional Signs, specifically permitted "Projecting Signs" and non-commercial banners authorized by Borough Council. Projecting signs may extend a maximum of 5 feet from a building and 5 feet into a street right-of-way, unless otherwise stated.

706.B. **Sight Distance.** No sign shall be so located or arranged that it interferes with safe sight distances for vehicles within a lot. Signs in a location that may reduce sight distance shall have a minimum clearance of 4 feet above the ground, except for structural posts.

706.C. **Off-Premises.** No sign except a permitted Off-Premise, Official, Political, Garage Sale, Open House or Public Service Sign shall be erected on a property to which it does not relate.

706.D. **Setbacks.** No freestanding sign for a commercial or industrial business shall be located within 15 feet of the lot line of an existing principally residential use or undeveloped residentially zoned land. A sign is not required to meet setback requirements for accessory structures.

707. **ILLUMINATION OF SIGNS.**

707.A. See Section 511, "Light, Glare and Heat Control."

707.B. **Times of Illumination.** It is strongly encouraged that signs within 100 feet of and shining towards a dwelling or a residential district not be illuminated between the hours of 10:00 p.m. and 6:00 a.m.

708. **VEHICLES FUNCTIONING AS SIGNS.** Any vehicle or structure to which a sign is affixed in such a manner that the carrying of such sign or signs no longer is incidental to the primary purpose of the vehicle or structure but becomes a primary purpose in itself shall be considered a freestanding sign and as such shall be subject to requirements for freestanding signs in the district in which such vehicle or structure is located.

709. **PROHIBITED SIGNS.** The following signs are prohibited in all zoning districts:

709.A. Flags and banners that contain a commercial message and that do not meet the requirements for a permitted sign.

709.B. Flashing, blinking, twinkling, animated or moving signs of any type, except time and temperature signs. This restriction specifically includes window signs, but does not prohibit Christmas lighting or displays, within Section 703.

709.C. Signs which emit smoke, visible vapors or particles, sound or odor.

709.D. Signs which contain information that states or implies that a lot may be used for any purpose not permitted under the applicable provisions of this Ordinance.

709.E. Signs that are of such character, form, shape or color that they imitate or resemble any official

traffic sign, signal or device or that have any characteristics which are likely to confuse or distract the operator of a motor vehicle on a public street (such as prominent use of the words "Danger" or "Stop").

709.F. Signs that use reflective materials to give the appearance of flashing, blinking, twinkling or electronically changing messages.

709.G. Signs or displays that include words or images that are obscene, pornographic or that an average reasonable person would find highly offensive to public decency.

709.H. Balloons of greater than 25 cubic feet that are tethered to the ground or a structure and are primarily intended for advertising purposes, except as provided as a "special sale sign."

709.I. Floodlights and Lasers, except as per permitted as a "special sale sign" under Section 703.

710. **CONSTRUCTION OF SIGNS.** Every permanent sign permitted in this section shall be constructed of durable materials and shall be kept in good condition and repair. Any sign which becomes dilapidated or unsafe may be repaired or removed by the Borough at the expense of the owner or leasee of the property on which it is located, after providing written notice to such owner or leasee.

711. **MEASUREMENT AND MAJOR TYPES OF SIGNS.**

711.A. **Sign Definitions.** The following definitions shall be used in determining whether signs meet the measurement and type requirements of this Article:

1. **Building Face.** The vertical area of a particular side of a building, but not including the area of any slanted roof.
2. **Freestanding Sign.** A sign which is self-supporting upon the ground or which is primarily supported by poles attached to the ground and not primarily supported by a building.

3. Height of Sign. The vertical distance measured from the average ground level surrounding a sign to the highest point of the sign and its supporting structure. Religious symbols, when not accompanied by lettering, shall not be restricted by the sign heights of this Article when attached to a tower or spire of a place of worship.
4. Illuminated Sign, Externally. A sign that is not "internally illuminated."
5. Illuminated Sign, Internally. A sign illuminated by light from within the sign rather than a source adjacent to or outside of the sign. A sign within a display case with lights only shining onto the front of the sign shall be considered to be "externally" illuminated.
6. Off-Premise Sign. See Article II.
7. Projecting Sign. A sign that projects more than 18 inches from the wall of a building, and which is permanently attached to such wall.
8. Sign. See Article II.
9. Wall Sign. A sign primarily supported by or painted on a wall of a building and which does not project more than 18 inches from such wall, or that is displayed on the surface of a permitted awning or canopy.

711.B. Measurement of Sign area.

1. Sign area shall include all lettering, wording and accompanying designs and symbols, together with related background areas on which they are displayed. One "freestanding sign" may include several signs that are all attached to one structure, with the total "sign area" being the total area of all signs on the structure.
2. The sign area shall not include any structurally supporting framework, bracing, or clearly defined wooden framing if such area does not include any display, lettering or sign and if such area is clearly incidental to the sign area itself.
3. Where the sign consists of individual letters or symbols attached to or painted directly on a building or window, other than an illuminated background that is a part of the sign, the sign area shall be the smallest rectangle that includes all of the letters and symbols.
4. In computing the permitted sign area of a sign with 2 sides, the permitted total sign area shall be based upon the sign area of only one side (the larger of any two if they differ). If the interior angle formed at the inside of the two sides of a two-sided sign is greater than 60 degrees, then the total area of both sides shall not be greater than the permitted total sign area. No sign shall have more than 2 sides or faces.
5. Unless otherwise specified, all square footages in regards to signs are maximum sizes.

712. OFF-PREMISE SIGNS (Including Billboards).

- 712.A. Purposes. Off-premise signs are controlled by this Ordinance for the following purposes, to: ensure that a physical environment is maintained that is attractive to desirable types of development, especially light industrial and office parks; prevent visual pollution in the Borough and protect property values, especially in consideration of the fact that most commercial areas of the Borough are within close proximity to existing residences; prevent

glare on adjacent property and streets; avoid the creation of additional visual distractions to motorists, especially along busy arterial streets that involve complex turning movements, congestion and numerous traffic hazards; recognize the numerous alternative forms of free speech available in the Borough, including existing nonconforming off-premise signs, on-premise signs and temporary signs and printed and electronic media; recognize that this Ordinance allows every landowner a reasonable use for his/her land; avoid off-premise signs that would have an unfair advantage over on-premise signs in the competition for attention, because off-premise signs typically are higher and larger than on-premise signs; carry out the purposes listed in Section 701.

712.B. Nonconforming Off-Premise Signs. This section is not intended to require the removal of an existing lawfully-placed off-premise sign that is in structurally sound condition.

712.C. Commercial and Noncommercial. This section applies to both commercial and noncommercial off-premise signs except as may be specifically provided for elsewhere in this Ordinance.

712.D. PennDOT Sign. Signs erected and maintained by the PennDOT are permitted by right in all Districts.

712.E. Permitted Off-Premise Signs. Based directly on the intent statements within this Ordinance, off-premise signs are only permitted if they meet the following requirements, except for exempt signs under Section 703.

1. District. An off-premise sign is only permitted in the PC and I Districts, and shall require special exception approval.
2. Location. An off-premise sign is only permitted within a maximum of 200 feet of existing right-of-way of an arterial street and a minimum of 10 feet from any non-residential lot line.
3. Maximum Sign Area - 300 square feet. Maximum Height - 80 feet. See definition in Section 711.
4. Spacing. Any off-premise sign shall be separated by a minimum of 600 feet from any other off-premise sign, including signs on either side of a street and including existing signs in other municipalities. No lot shall include more than 1 off-premise sign.
5. Attached. No off-premise sign or sign face shall be attached in any way to any other off-premise sign. Off-premise signs shall have a maximum of 1 sign face.
6. Lighting and Glare. See standards in Section 511.
7. Residences. No off-premise sign shall be located within 150 feet of an existing dwelling or undeveloped residentially zoned land, and shall be directed in such a way that lighting shines directly onto abutting dwellings.

ARTICLE VIII

GENERAL REGULATIONS

801. FRONTAGE ONTO IMPROVED STREETS; NUMBER OF USES OR BUILDINGS; MINIMUM SIZE OF DWELLINGS.

801.A. Frontage Required onto an Improved Street.

1. Every principal building shall be built upon a lot with permanent access onto a public street which has a minimum paved cartway width of 16 feet, unless one of the following exceptions exists:
 - a. if Borough Council specifically approves a private street under the Subdivision and Land Development Ordinance,
 - b. in the case of townhouses or apartments, if the dwellings have access onto a parking court or shared driveway which then has access onto such public street,
 - c. a pre-existing lawful lot which has access onto an existing private street or alley that does not meet Borough standards, may be used for a single permitted by right principal building; however, any new lots shall only be created if they meet the street access requirement.

801.B. Multiple Uses in a Building. Occupancy of a principal commercial or industrial building by more than one permitted use is specifically allowed, provided that all other requirements of this Ordinance are satisfied.

801.C. Multiple Buildings on a Lot. An approved commercial, institutional, industrial or low-rise apartment lot may include more than one principal building. In such case, the minimum front, side and rear yard requirements shall only apply at lot lines of the property. Individual buildings or portions of such buildings may be held in approved condominium ownership, but the lot shall be owned by a single legal entity.

802. SPECIAL LOT AND YARD REQUIREMENTS EXCEPTIONS AND BUFFER YARDS.

802.A. In General.

1. No lot, structure or use shall be created or developed in such a way that it would result in another lot, building or use not being able to meet the requirements of this Ordinance. This includes, but is not limited to, setback areas, nonimpervious areas and off-street parking areas.
2. Emergency Access. All uses and structures shall have adequate provisions for access by emergency vehicles.
3. Accuracy. The applicant is responsible to make sure that all measurements submitted to the Borough are accurate.

802.B. Exceptions to Minimum Lot Areas, Lot Widths and Yards.

1. Nonconforming Lots. See Section 804.
2. Triangular Lots. A three-sided lot shall have one side yard and one rear yard.

3. Projections Into Required Yards.

- a. **Miscellaneous Projections.** Cornices, eaves, sills or other similar architectural features, exterior stairways, fire escapes or other required means of egress, wheelchair ramps, rain leads or chimneys or other similar structures that do not include space usable by persons may extend or project into a required yard a maximum of 3 feet.
 - b. **Porches.** Residential porches may project into a maximum of one-half of the distance of a required yard if they meet all of the following requirements: 1) may or may not be covered by a permanent roof, 2) are not enclosed, 3) do not have walls of mostly solid material, glass or plexiglass, 4) are raised a maximum average of 3 feet above the underlying ground level and 5) abut the principal building.
4. **Previously Approved Setbacks.** Where a subdivision or land development was granted final approval prior to the adoption of this Ordinance, and the lawful setbacks in effect at such time are shown on the approved plans, at the option of the developer, those approved setbacks may apply in place of any revised setbacks in this Ordinance.
5. **Front Yard Setback Exception.** In any District where more than 75 percent of the block frontage includes existing principal buildings having front yards of less depth than that required for the particular Zoning District, then the required front yard setback may be decreased for such block to the average existing setback of the buildings that do not conform to the setback.
6. **Exceptions for Existing Nonconforming Buildings.** The Zoning Hearing Board may grant a special exception to reduce the parking requirements or to reduce lot area, lot width, yard, off-street parking or similar dimensional requirements to allow reasonable reuse of space within a building that existed prior to the adoption of this Ordinance, if all of the following conditions are met:
- a. The overall use of the lot or building will otherwise be in conformity with this Ordinance; and
 - b. If the special exception use is denied, it will be very difficult to make reasonable use of the building or lot; and
 - c. The granting of the special exception will not create serious nuisances or hazards to adjacent property owners or the general public.

802.C. **Buffers.** Buffer yards with evergreen screening complying with the following standards shall be required under the following situations:

Buffer Yard to be Provided by the Following:	When the Use Providing the Screening & Buffer Is:
1. Any newly developed or expanded industrial use or industrial outdoor storage area.	Visible from and abutting a residential lot line or within 250 feet of an existing dwelling.
2. A parking lot of more than 15 spaces.	Visible from and within 100 feet of an existing residential lot line.
3. Apartments or townhouses	Abutting a SFR District.

Buffer Yard to be Provided by the Following:	When the Use Providing the Screening & Buffer Is:
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4. Any existing, newly developed or expanded commercial use.	Within or adjacent to any residential district, except for commercial uses in the TC1 or TC2 zoning districts.
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2. Location of Buffers.

- a. Plants needed for the visual screen shall not be placed within a future street right-of-way.
- b. The buffer may include areas within a required front, side or rear yard setback, or a paved area setback.

3. Characteristics of Buffer Yards.

- a. Preservation of existing vegetation or slopes. If an applicant proves to the satisfaction of the Zoning Officer that an existing healthy tree line, attractive thick vegetation, natural earth berm and/or steep slopes will be preserved and serve the same buffer purposes as plant screening that would otherwise be required, then such preserved existing buffer shall be permitted to be used in place of planting new plants. If this existing buffer requirement is removed, the applicant shall be required to plant a buffer that will meet the planting requirements of this section.
- b. Fence. Any fence shall be placed on the inside of any required evergreen screening.

4. Plant Screening in Buffer Yards.

- a. Each buffer shall include a planting screen of trees or shrubs extending the full length of the lot line.
- b. Each planting screen shall meet the following requirements:
 - i) Plant materials needed to form the visual screen shall have a minimum height when planted of 4 feet.
 - ii) Plants needed to form the visual screen shall be of such species, spacing and size as can reasonably be expected to produce within 3 years a solid year-round visual screen at least 6 feet in height.
 - iii) The plant screen shall be permanently maintained by present and future landowners. Any plants needed to form the visual screen that die or are removed shall be replaced within 120 days.
 - iv) The plant screen shall be placed so that at maturity the plants will be at least 5 feet from any cartway and will not grow over an exterior lot line.
 - v) The plant visual screen shall be interrupted only at: a) approved points of vehicle or pedestrian ingress and egress to the lot, b) locations necessary to comply with the sight distance requirements of the Subdivision and Land Development Ordinance and c) locations needed to meet other specific State and Borough requirements.

803. **INDUSTRIAL DRIVEWAYS.** A new driveway serving a principal industrial use shall not be permitted within a residential district. This restriction shall not apply to a driveway that will be clearly limited to use by only emergency vehicles.

804. **NONCONFORMITIES.** (See definitions in Article II).

806.A. **Proof of and Registration of Nonconformities.** It shall be the responsibility of a party asserting a nonconformity to provide the evidence that it is lawful (i.e. either existed prior to 1975 or was allowed by action of the Zoning Hearing Board). A property owner may request a written statement of nonconformity from the Zoning Officer after providing sufficient evidence.

806.B. **Continuation.** A lawful nonconforming use, structure or lot as defined by this Ordinance may be continued and may be sold and continued by new owners. Any expansion of, construction upon or change in use of a nonconformity shall only occur in conformance with this section.

806.C. **Expansion of, Construction Upon or Change in Use of Nonconformities.**

1. Nonconforming Structure.

- a. The Zoning Officer shall permit a nonconforming structure to be reconstructed or expanded provided:
 - i) that such action will not increase the severity or amount of the nonconformity (such as the area of the building extending into the required setback) or create any new nonconformity, and
 - ii) that any expanded area will comply with the applicable setbacks in that District and other requirements of this Ordinance.
- b. If a nonconforming structure is used by a nonconforming use, any expansion shall also meet the requirements of this Section regarding nonconforming uses.

2. Nonconforming Lots.

- a. New permitted structures for a single permitted by right principal use and its customary accessory uses may be constructed, reconstructed or expanded on a nonconforming lot of record as a permitted by right use if all of the following requirements are met:
 - i) The lot area is at least 30 percent of the minimum lot area.
 - ii) The lot width is at least 30 percent of the minimum lot width.
 - iii) The lot is a lot of record that lawfully existed prior to the adoption of this Ordinance or an applicable subsequent amendment.
 - iv) Minimum setbacks and other requirements of this Ordinance are complied with for any new construction or expanded area.
- b. **Setback Reduction.** The Zoning Hearing Board may grant a special exception to reduce the required setbacks concerning construction on a nonconforming lot if the Board determines that such reduction would result in a building that would be more compatible with neighboring residences than would be built if the setback requirement was not reduced.
- c. **Small Nonconforming Lots.** If a proposed development on a lawful nonconforming lot does not meet the lot area, lot width or setback requirements of the above Section 806.C.2. parts a. and b., then development of the lot shall not occur unless the Zoning Hearing Board grants a variance.

3. **Expansion of a NonConforming Non-Residential Use.** A nonconforming use or a building used by a nonconforming use shall not be expanded, except in accordance with the following provisions:
 - a. Any expansion of a nonconforming use shall meet the required setbacks and other requirements of this Ordinance, unless the Zoning Hearing Board grants a variance.
 - b. The expansion shall be limited to the same lot or lot(s) on which the use existed at the time the use became nonconforming.

804.D. Damaged or Destroyed Nonconformities.

1. A nonconforming structure that has been destroyed or damaged may be rebuilt in the same nonconforming fashion only if: a) the application for a building permit is submitted within 12 months after the date of damage or destruction, b) work begins in earnest within 6 months afterwards, and c) the destruction or damage was the result of fire, windstorm, lightning or similar cause deemed to have not been caused by the owner. Extension to this section may be granted by the Zoning Hearing Board.

804.E. Discontinuation and Abandonment of a Nonconformity.

1. **Discontinuation.** Any person desiring to temporarily discontinue a non-conforming use may do so, and may resume the same or otherwise permissible non-conforming use within 18 months after such discontinuance. Extensions of the period may be permitted by the Zoning Hearing Board. A discontinued use will not be deemed to be resumed unless such use is operated on a regular basis for 6 months after such resumption begins.

804.F. Changes from One Nonconforming Use to Another.

1. Once changed to a conforming use, a structure or land shall not revert to a nonconforming use.
2. A nonconforming use may be changed to another nonconforming use only if permitted as a Special Exception by the Zoning Hearing Board, except that the Zoning Officer may permit a change from one nonconforming use to a use the Zoning Officer determines to be of the same general type (such as from one retail sales use to another, or from one personal service use to another), provided that the new use complies with any applicable Zoning Hearing Board conditions placed on the previous use.
3. For a change of a non-conforming use, except for a change permitted pursuant to Section 804. above, the Board shall determine whether the applicant has provided sufficient proof to show that the proposed new use will be equally or less objectionable in external effects than the pre-existing nonconforming use with regard to:
 - a) Traffic generation (especially truck traffic),
 - b) Noise, dust, fumes, vapors, gases, odor, glare, vibration, fire and explosive hazards,
 - c) Amount and character of outdoor storage,
 - d) Hours of operation if the use would be close to dwellings and
 - e) Compatibility with the character of the surrounding area.

804.G. Historic District. All changes to a nonconformity within the Historic District shall also comply with the Historic District regulations of the Borough.

805. TEMPORARY STRUCTURE OR USE; SPECIAL EVENTS.

- 805.A. General Temporary Uses (such as tents). The temporary erection of a tent or similar temporary structure that is not totally enclosed is permitted for a maximum of 7 days in any 4 month period for clearly routine customarily accessory uses such as the following: a wedding in the rear yard of a dwelling, a festival by a place of worship or a special sale within the lot of a lawful commercial use.
- 805.B. Removal. If the structure or use is not removed in a timely fashion after proper notification, the Borough may remove the use or structure at the cost of the person who owns the land upon which the structure or use is located.
- 805.C. Construction Vehicle Parking and Temporary Offices. See the definitions of "Essential Services" and "Accessory Structures" in Section 202.

ARTICLE IX

H HISTORIC DISTRICT

901. **TITLE AND PURPOSES.**

- A. This Article may be known and cited as "The Mercersburg Borough Historic District Regulations."
- B. These Historic District regulations are intended to serve the following purposes:
 - 1. To protect the cultural, economic, social and political and architectural history of Mercersburg and the surrounding region.
 - 2. To promote the use, preservation and restoration of historic buildings to enhance the quality of life and to encourage interest in the area's history.
 - 3. To strengthen the economy of Mercersburg by improving property values and promoting tourism.
 - 4. To provide for new buildings and alterations in ways that are harmonious with the existing historically and architecturally significant buildings.

902. **CREATION OF HISTORIC DISTRICT.** Pursuant to the Act 167 of Assembly of 1961, P.L. 282, (53 P.S. 8001), as amended, there is hereby created in the Borough of Mercersburg an historic district to be known as "Mercersburg Borough Historic District." The "H" Historic District shall be an **overlay** zoning district to the existing zoning districts. All of the provisions of the underlying zoning districts shall remain in full force, except that these additional procedures and requirements of this Article also apply. For the purposes of the following description, "PA." shall mean Pennsylvania, "Co." shall mean "County," "St." shall mean "Street" and "Ave." shall mean "Avenue." The limits of the said district are as follows:

BEGINNING at the point formed by the intersection of the centerlines of South Main St., Mercer Ave., Third Alley South and Linden Ave.; thence in a southerly direction along the centerline of Linden Ave. to a point formed by the intersection of the centerlines of said Linden Ave. and Fourth Alley South; thence in an easterly direction along the centerline of Fourth Alley South to a point formed by the intersection of the centerlines of said Fourth Alley South and Alley "C" East; thence in a southerly direction along the centerline of Alley "C" East to a point at the intersection of the centerline of the aforesaid Alley "C" East and the south boundary line extended of the William L. Horgan and Katherine P. Horgan property, more fully described in the deed recorded in the office of the Recorder of Deeds for Franklin Co., PA., in Deed Book Volume 518, page 151; thence in an easterly direction along the southern boundary line of the aforesaid Horgan property to a point at the intersection of the aforesaid south boundary line extended and the centerline of PA. Route 75; thence in a northerly direction along the centerline of PA Route 75 to a point at the intersection of the aforesaid PA. Route 75, South Main St., and Constitution Ave.; thence continuing in a northerly direction along the centerline of Constitution Ave. to a point formed by the intersection of the centerline of the aforesaid Constitution Ave. and the northern boundary line extended of the property of J. Albert Metcalfe and Esther M. Metcalfe, his wife, more fully described in the deed recorded in the office of the Recorder of Deeds for Franklin Co., PA., in Deed Book Volume 920, page 85; thence in a westerly direction along the northern boundary line of the aforesaid Metcalfe property to a point at the intersection of the aforesaid north boundary line extended of the Metcalfe property and the centerline of South Fayette St.; thence in a northerly direction along the centerline of South Fayette St. to

a point at the intersection of the centerline of South Fayette St. and the centerline of Fourth Alley South; thence in a westerly direction along the centerline of the aforesaid Fourth Alley South to a point at the intersection of the centerline of the aforesaid Fourth Alley South and the eastern boundary line extended of the property of Joseph E. Rockwell, more fully described in the deed recorded in the office of the Recorder of Deeds for Franklin Co., PA., in Deed Book Volume 874, page 40; thence in a northwesterly direction along the rear property lines of all properties of various owners fronting on South Main St. between Fourth Alley South and Third Alley South to a point in the centerline of Third Alley South; thence in a northerly direction across or along the eastern most boundaries of those properties of various owners fronting on South Main St. between Third Alley South and Second Alley South to the point of intersection of the centerlines of Second Alley South and Alley "A" East; thence on the same northerly course along the centerline of Alley "A" East to the point of intersection with the centerline of First Alley South; thence in an easterly direction along the centerline of First Alley South to the point of intersection with the centerline of Alley "B" East; thence on the same easterly course across, or along the southern most boundaries of properties of various owners lying along East Seminary St. to the point of intersection with Constitution Ave.; thence in a northerly direction along the centerline of Constitution Ave. to the point of intersection with the centerline of East Seminary St.; thence in an easterly direction along the centerline of East Seminary St. to the point of intersection of the centerlines of East Seminary St. and Rutledge Road; thence in a northerly direction along the centerline of Rutledge Road to the point of intersection with the centerline of Second Alley North; thence in a westerly direction along the centerline of Second Alley North to a point 200 feet more or less east of the point of intersection of the centerline of Second Alley North with the centerline of North Main St. being the eastern most boundary of those properties lying across, or along the eastern most boundaries of properties of various owners fronting on North Main St. to the centerline of Oregon St.; thence southwesterly along the centerline of Oregon St. to the point of intersection with North Park Ave. and North Main St. (PA Route 16); thence continuing in a southwesterly course along the centerline of North Park Ave. to the point of intersection with Alley "A" West; thence in a southerly direction along the centerline of Alley "A" West to the point of intersection with the centerline of Second Alley North; thence in a westerly direction along the centerline of Second Alley North to the point of intersection with the centerline of North Park Ave.; thence in a southwesterly direction along the centerline of North and South Park Ave. to a point midway between West Seminary St. and West California St.; thence in an easterly direction across the property of the Presbyterian Church to the centerline of First Alley South and continuing along the centerline of First Alley South to the point of intersection with the centerline of Alley "A" West; thence in a southerly direction along the centerline of Alley "A" West to the point of intersection with the centerline of Mercer Ave.; thence in an easterly direction along the centerline of Mercer Ave. to the place of closure and Beginning, at the point of intersection of Mercer Ave., South Main St., Third Alley South and Linden Ave..

903. **HISTORICAL ARCHITECTURAL REVIEW BOARD.** (Hereinafter referred to in this Article as "the Board" or "the HARB.")

- A. Members. A Historical Architectural Review Board is hereby established to be composed of 7 members appointed by the Borough Council, 1 of whom shall be a registered architect, 1 of whom shall be a licensed real estate broker, 1 of whom shall be an appointed Borough building permit official and 4 of whom shall be residents of the Borough having a knowledge of and interest in the preservation of the District and/or having an educational background in history, historical preservation, architecture, fine arts, archeology or other related disciplines.
- B. Members shall serve terms of 5 years. The existing terms shall be continued, with 1 term expiring in 1997, 1 in 1998, 1 in 1999, 2 in 2000 and 2 in 2001. If a member leaves office prior to the expiration of the term, Borough Council shall appoint a person to serve the unexpired portion of the term.

904. **DUTIES OF THE HARB.**

- A. The HARB shall provide advice to property-owners and the Borough Council regarding the issuance of certificates required under this Article and within the State Historic District Act of 1961, as amended.
- B. The HARB may establish and amend rules and regulations for its own organization and procedures consistent with this Article and the laws of the Commonwealth.
- C. A majority of the HARB shall constitute a quorum. A vote by the HARB shall only constitute an official recommendation if there is an affirmative vote or a negative vote by a simple majority of the entire Board. Regardless of whether the Board is able to make an official recommendation, the matter shall be forwarded to Borough Council. The members of the HARB shall serve without compensation, except as provided otherwise by Borough Council, such as reimbursement for expenses.

905. **PERMITS WITHIN THE HISTORIC DISTRICT.**

- A. Action Requiring a Permit. Any erection, rehabilitation, exterior alteration, sandblasting, restoration, demolition or razing of any building in the District or any erection or posting of any sign (of a type that requires a permit under Borough ordinances) or any fence or wall that will be visible from a public street or public sidewalk shall first require an issuance of a Certificate of Appropriateness by Borough Council under this Article IX.
 - 1. Such Borough Council action shall be required prior to the issuance of any other Borough permit for such work.
 - 2. An approval under this Article is not required for work that would only be visible from an alley, and that is not visible from a public street or public sidewalk.
- B. Exceptions. Repairs and minor restorations that do not affect the exterior appearance of a building shall not require the issuance of such a certificate and, unless required by other Ordinances of the Borough, shall not require the issuance of a building permit. The following items and closely similar work as determined by the Borough Staff shall be included in this exemption:
 - 1. painting of previously painted surfaces with colors that are historically appropriate to the building and district;
 - 2. the addition of items such as painted storm windows, storm sashing and storm doors which are of utility to the homeowner and which do not substantially alter the architecture of the building;
 - 3. the pointing of brick or stone with a similar color mortar;
 - 4. the cleaning of buildings provided that the exterior is not sandblasted or otherwise modified or permanently harmed by the cleaning process; and
 - 5. any other work which does not change the exterior appearance of the building but which consists solely of normal and routine maintenance designed and carried on to protect and preserve the building.

906. **APPLICATION PROCEDURE.** Upon receipt of an application for a building permit for proposed work in the Historic District, the appropriate Borough staff shall:

- A. Forward to the HARB a copy of the application for a building permit, together with a copy of any site plan and building plans and specifications filed by the applicant.

- B. Maintain in his/her office a record of all such applications and of his/her handling and the final dispositions of the same.
 - C. Require applicants to submit a reasonable number of copies of materials required in the application.
907. **HARB PROCEDURE.** The HARB, upon receipt of an application for a permit concerning a building(s) or sign in the District, shall consider said application at its next scheduled meeting, unless the Chairperson establishes a special meeting date for such purpose. The applicant shall be advised of the time and place of the meeting and may appear to explain his/her requests for approval. The HARB or applicant may invite other persons to attend the meeting. All such meetings shall be open to the public, within the provisions of State law.
908. **STANDARDS FOR DECISIONS.** The HARB shall consider the following matters:
- A. The "Secretary's Standards for Historic Rehabilitation" and accompanying explanatory guidelines and reports as officially issued by the U.S. National Park Service;
 - B. The effect of the proposed change upon the general historic and architectural character of the District;
 - C. The appropriateness of exterior architectural features which can be seen from a public street or public sidewalk (features not visible from a public street or a public sidewalk are not regulated by this Article).
909. **MODIFICATIONS IN APPLICATION.**
- A. If the HARB, on the basis of the information received at the meeting and from its general background and knowledge, decides to advise against the granting of a Certificate of Appropriateness, the HARB shall indicate to the applicant the changes in the plans and specifications, if any, which would protect the distinctive historic character of the District.
 - B. The HARB shall withhold its report to the Borough Council for a period of 5 days following its decision to allow the applicant to make the suggested changes in the plans and specifications.
 - C. If the applicant determines that he/she will make the changes suggested by the HARB, he/she shall so notify the HARB in a written statement and the HARB shall advise the Borough Council accordingly.
910. **REPORT OF HARB.**
- A. The HARB, after the hearing provided for in Section 907 and after considering any changes in the application as provided in Section 909, shall submit to the Borough Council its written recommendation concerning the issuance of a Certificate of Appropriateness.
 - B. Such written report shall set out the following matters:
 - 1. The exact location or address of the area in which the work is to be done;

2. The exterior changes to be made or the exterior characteristics and materials of the structure to be erected;
3. A description of the surrounding structures with their general exterior characteristics;
4. The effect of the proposed change upon the general historic and architectural nature of the District;
5. The general design, arrangement, texture and material of the building or structure and the relation of such factors to similar features of buildings or structures in the District;
6. A discussion of whether the work proposed conforms to the Secretary's standards.
7. The opinion of the HARB (including any dissent) as to the appropriateness of the work proposed as it will preserve or harm the historic character of the District; and
8. The specific advice of the HARB as to whether the Certificate of Appropriateness should be issued or denied by the Borough Council.

911. **BOROUGH COUNCIL'S DUTIES.**

- A. Upon receipt of the written report of the HARB, the Borough Council shall consider whether to issue a Certificate of Appropriateness authorizing a permit for the work covered by the application.
- B. The applicant shall be advised of the time and place of the meeting at which his/her application will be considered and shall have the right to attend and be heard as to his reasons for filing the same.
- C. In determining whether or not to issue a Certificate of Appropriateness the Borough Council shall consider the same factors as the HARB.
- D. If the Borough Council approves the application, it shall issue a Certificate of Appropriateness authorizing the Building Permit Officer to issue a permit for the work covered.
- E. Any disapproval of the application by Borough Council shall be made in writing, with copies mailed to or given to the applicant and to the Pennsylvania Historical and Museum Commission. The disapproval shall indicate what changes in the plans and specifications would meet the conditions for protecting the distinctive historical character of the District.

912. **DENIAL OF PERMIT.** Upon receipt of the written disapproval of the Borough Council, the Building Permit Officer shall disapprove the application for a building permit and so advise the applicant. The applicant may appeal from the disapproval as provided by law.

913. **DEMOLITION.**

- A. **Purpose.** The intent of this section is to ensure that valuable historic resources are not permanently destroyed unless there are no reasonable alternatives available.

- B. This section shall apply to any existing building or portion of such building within the Historic District.
 - C. No building defined by subsection "B." above shall be demolished unless one of the following is satisfied, in the determination of the Borough Council, based upon the recommendations of the HARB:
 - 1. That the building is non-contributing to the historic district, based upon the advice of the HARB;
 - 2. That the applicant proves that no reasonable beneficial use of the building is possible, and that such situation is not the result of intentional neglect by the current owner; or
 - 3. That the applicant proves that the denial of the demolition would greatly result in unreasonable economic hardship to the owner.
914. **ENFORCEMENT.** The Borough Council shall have the power to institute any proceedings at law or in equity necessary for the enforcement of this Article in the same manner as the enforcement of the Zoning Ordinance and Building Permit Ordinance, as applicable, of the Borough.
915. **EMERGENCIES.**
- A. In the event of any damage to any building located in the historic district which requires prompt repair or stabilization for the protection of the building or items contained therein, or to permit the building to continue to be utilized, the owner of the building may make such repairs or accomplish such stabilization as necessary to protect the building or the items contained therein or to permit the continued use of the buildings without complying with the provisions of this Article.
 - B. Such owner shall report the need for such repairs to the Borough Office and obtain a Borough permit promptly after discovery of such need in order to secure the benefits of this section. Such owner shall do no more work than is reasonable to obtain the said protection without complying with the provisions of this Article.
916. **DEFINITIONS.** The following definitions shall apply for the purposes of this Article IX:
- A. **Preservation.** The act or process of applying measures to sustain the existing form, integrity, and material of a building or structure, and the existing form and vegetative cover of a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.
 - B. **Protection.** The act or process of applying measures designed to affect the physical condition of a property by defending or guarding it from deterioration, loss or attack, or to cover or shield the property from danger or injury. In the case of buildings and structures, such treatment is generally of a temporary nature and anticipates future historic preservation treatment; in the case of archeological sites, the protective measure may be temporary or permanent.

- C. Reconstruction. The act or process of reproducing by new construction the exact form and detail of a vanished building, structure, or object, or a part thereof, as it appeared at a specific period of time.
- D. Rehabilitation. The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural, and cultural values.
- E. Restoration. The act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.
- F. Stabilization. The act or process of applying measures designed to reestablish a weather resistant enclosure and the structure stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present.

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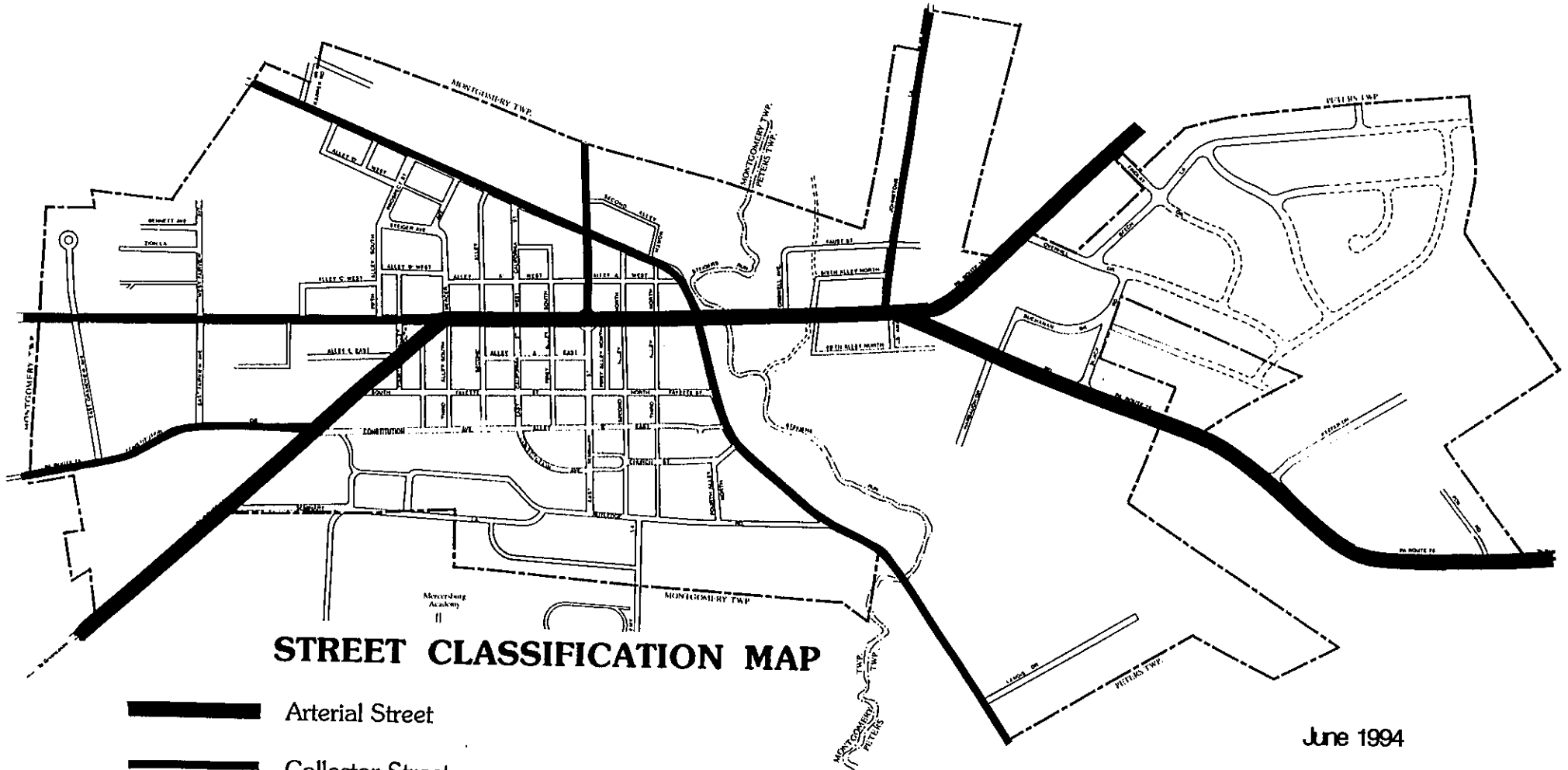
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BOROUGH OF MERCERSBURG

Franklin County, Pennsylvania



STREET CLASSIFICATION MAP

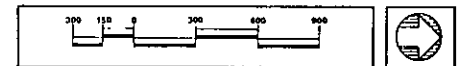
 Arterial Street

 Collector Street

All other existing streets are local streets.

Note - This map is not intended to distinguish public from private streets.

June 1994



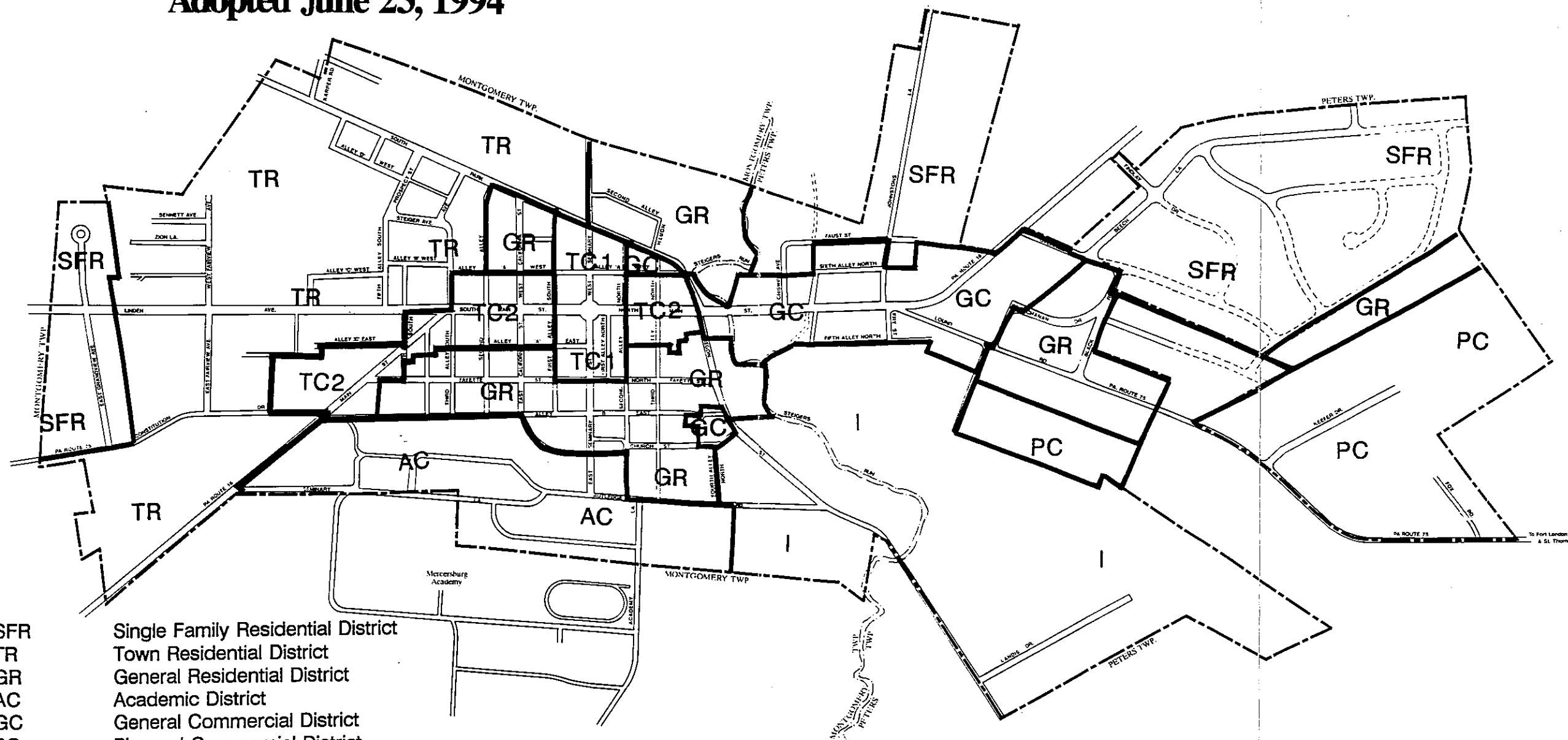
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BOROUGH OF MERCERSBURG

Franklin County, Pennsylvania

ZONING MAP

Adopted June 23, 1994



- SFR Single Family Residential District
- TR Town Residential District
- GR General Residential District
- AC Academic District
- GC General Commercial District
- PC Planned Commercial District
- TC1 Town Center 1 District
- TC2 Town Center 2 District
- I Industrial District
- FP 100 Year Floodplain (overlay district to underlying districts)
See the official Federal Floodplain Maps

HD Historic District (overlay district to underlying districts) -
See Historic District Map

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