

**AVONDALE BOROUGH
ZONING ORDINANCE #172**

CHAPTER XXVI OF THE BOROUGH CODE

Adopted December 17, 1996

AMENDMENTS

Ordinance #181- Fence Regulations

Ordinance #184 - Definitions

Ordinance #185 -Enactment of Certain Codes

Ordinance #202 - No Impact Home Based Businesses

Ordinance #209 -Townhouse Gross Density Development

Ordinance #199 -Flood Hazard District

Ordinance #214 - Amending Ordinance #199 – Compliance with National
Flood Insurance Program and Pennsylvania Flood Plain
Management Act

Ordinance #224 – Allow Minimum Floor Area Required for A Townhouse
Unit.

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Steve Tallman
Tina DiFonzo
Peter Rizzotte
John Botkin
Ann Bush
Jerry Poe

Henry U. Walker, Mayor

PLANNING COMMISSION

Louis Kirkaldie, Chairman
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Constance Reid

PREPARATION AND FUNDING

This document was funded by part by Avondale Borough and is a product of the Borough. Additional funding and technical assistance has been provided by the Chester County Planning Commission thorough the planning Grants Program of the Chester County Board of Commissioners



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PART 1

Purpose, Interpretation, Short Title

Section 1.1. Short Title. This Ordinance shall be known and may be cited as "The Avondale Borough Zoning Ordinance of 1963, as amended", and further identified as Chapter XXVI of the Avondale Borough Code.

Section 1.2. Effective Date. This Ordinance shall become effective five (5) days following its official adoption.

Section 1.3. Purposes. The purpose of this Ordinance is to promote the health, safety, and general welfare of the inhabitants of the Borough by:

- A. Implementing the recommendations of the Avondale Borough Comprehensive Plan (1994);
- B. Implementing the recommendations of the Avondale Borough Open Space, Recreation, and Environmental Resource Plan (1994);
- C. Securing safety from fire, panic and other dangers;
- D. Providing adequate light and air;
- E. Preventing the overcrowding of land;
- F. Avoiding undue concentration of population;
- G. Facilitating the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and
- H. Encouraging the most appropriate use of land.

Section 1.4. Community Development Objectives. The following Community Development Objectives represent the broad intent of this Ordinance, and reflect the goals of the Avondale Borough Comprehensive Plan.

- A. Provide for development within the Borough that is compatible with the existing character of the community.
- B. Provide opportunities for suitable and compatible commercial, business and industrial activities within the scale of existing land use patterns, support services, transportation networks, and environmental concerns of the Borough.
- C. Provide opportunity for a variety of residential housing types within the natural and service constraints of the Borough.
- D. Protect the natural resources of the Borough.

Section 1.5. Interpretation. In interpreting and applying the provisions of this Ordinance, they shall be held to be minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of this Ordinance impose greater restrictions than those of any statute, other Ordinance, or regulation, the provisions of this Ordinance shall be controlling. Where the provisions of any statute, other Ordinance or regulation impose greater restrictions than this Ordinance, the provisions of such statute, Ordinance, or regulation shall be controlling.

Section 1.6. Severability. Should any Article, Section, or provision of this Chapter of the Avondale Borough Code be declared invalid by a Court of Competent Jurisdiction, such a decision shall not affect the validity of the Ordinance as a whole or any other part thereof.

Section 1.7. Repealer. All Ordinances or parts of Ordinance inconsistent with the provision of this Ordinance are hereby repealed.

PART 2
Definitions

Section 2.1. General. Unless specifically defined below, words and phrases used in this Part shall be interpreted so as to give this Part its most reasonable application.

- A. The present tense shall include the future; the singular shall include the plural, and the plural the singular; the masculine gender includes the feminine and neuter; the word "person" includes any individual, estate, trust, fiduciary, partnership, firm, association, corporation or organization.
- B. The word "shall" is always mandatory; the word "may" is optional.
- C. The word "County" refers to Chester County, Pennsylvania; the term "Borough" shall refer to Avondale Borough; the term "Planning Commission" shall refer to the Avondale Borough Planning Commission; the term "Zoning Hearing Board" shall refer to the Avondale Borough Zoning Hearing Board; and the term "Zoning Officer" shall refer to the Avondale Borough Zoning Officer.
- D. The word "including" shall not limit the term to the specified example but is intended to extend its meaning to all other instances of similar kind and character.

Section 2.2. Specific Definitions.

ACCESS - Primary location or locations for exiting and entering a use, lot, or building.

ACCESSORY STRUCTURE - A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.

ACCESSORY APARTMENT - A secondary dwelling unit either in or added to an existing single-family detached dwelling for use as a complete, independent living facility with provisions for cooking, eating, sanitation, and sleeping.

ACCESSORY USE- A use that is clearly secondary or subordinate to the primary use.

ADULT CARE FACILITY - A residential complex that may include one, or any combination of senior center, independent living, personal care and acute care arrangements for a group of older adults.

ALLEY - A public or private way permanently reserved as a secondary means of access to abutting property.

APARTMENT- An individual residential unit that is part of a larger structure and is usually leased or rented.

BED AND BREAKFAST - A house, or portion thereof, where short-term lodging rooms and meals are provided exclusively for guests of the Bed and Breakfast.

BLOCK - An area bound by three (3) or more streets.

BUILDING LINE - The line, parallel to the front lot line, that passes through the point of the principal building nearest to the front lot line.

BUILDING SEPARATION - The horizontal distance between the closest points of two structures.

CALIPER - The diameter of a tree trunk measured four and one half (4.5) feet from the ground.

COMMUNICATION TOWER - A reception and transmission tower intended for non-private transmitting and receiving of radio, television, telephone or digital communications, including an immediately adjacent building or structure, the size of which shall not exceed what is absolutely necessary to permit the communication tower to operate as intended.

CONDITIONAL USE - A use permitted in a particular zoning district when approved pursuant to the provisions of Borough Council (See Section 14.4).

CONSERVATION USE - A use, including a park, preserve, or sanctuary, intended to retain the natural features of the land including animal life.

CONSTRUCTION - The construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of manufactured homes.

CORNER LOT - A lot abutting on and at the intersection of two or more streets. A corner lot shall be required to meet front yard setbacks along all adjacent streets.

COVERAGE, BUILDING - The percentage of a lot covered by buildings or roofed areas.

COVERAGE, LOT - The percentage of a lot covered by all impervious surfaces including buildings, driveways, sidewalks, parking areas and accessory structures.

CRAFT PRODUCTS - Shall include, but not be limited to, pottery, woodwork, woven goods, paintings, and sculptures.

DAY CARE- Premises used as either a Day Care Center or Family Day Care Home.

DAY CARE CENTER - Any premises in which child day care is provided simultaneously for seven (7) or more children.

FAMILY DAY CARE HOME - A home-based operation in which child or adult care is provided at any one time for four (4) to six (6) children or adults who are not relatives and care is not given on a twenty-four (24) hour basis.

DENSITY - The total number of dwellings or structures permitted per acre of land.

DEVELOPMENT - Any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, the placement of manufactured homes, streets, and other paving utilities, filling, grading, excavation, mining, dredging, drilling operations, or the storage of materials and equipment and the subdivision of land.

DRIVE-THRU FACILITY - Any facility where an activity or transaction takes place that does not require the customer to exit his or her car. Such facilities include, but are not limited to drive-thru facilities for restaurants, bank teller windows, or ATM's.

Amendment to definitions see ordinance #184

DWELLING - Any structure, or part thereof, designed to be occupied as living quarters as a housekeeping unit.

MULTI-FAMILY DWELLING - A single residential building containing separate dwellings for three or more families.

SINGLE-FAMILY ATTACHED DWELLING (Townhouse) - One of three or more residential buildings having a common party wall(s) separating dwelling units.

SINGLE-FAMILY DETACHED DWELLING - A residential building, occupied by one family, containing one dwelling unit, entirely surrounded by open space.

SINGLE-FAMILY SEMI-DETACHED DWELLING (Twin) - One of two residential dwellings (duplex) having a common party wall separating dwelling units.

TWO FAMILY (Duplex) - One of two residential dwellings where one is situated on top of the other.

ELDERLY HOUSING - Multi-family dwellings or single-family attached dwellings designed and constructed exclusively for housing intended and occupied by; (a) 100% by persons 62 years of age or older; or (b) 80% by at least one person 55 years of age or older per unit with the condition that facilities or services are provided specifically to meet the physical or social needs of older persons, unless it is determined that the provision of such services is not practicable, that such housing is necessary to provide important housing opportunities for older persons.

FOOTCANDLE - Unit measuring the light quantity or density of light on a surface that is equally one foot from a uniform illumination source as a function of number of lumens striking an area equal to one foot.

FOOTCANDLES, MAINTAINED - Under the worst maintenance conditions, including reduced light intensity, the number of lumens striking an area equal to one foot.

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

FLOOR AREA - The total floor space of the inhabitable or useable enclosed portions of a building or structure.

GARAGE, COMMERCIAL - A building designed and used for the repair of automotive vehicles operated as a business enterprise with a service charge or fee being paid to the owner or operator for the parking or storage of privately owned and licensed vehicles.

GARAGE, PRIVATE - A building for the private use of the owner or occupant of a principal building situated on the same lot as the principal building for storage.

HISTORIC STRUCTURE - Any structure that is:

- A. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; or
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - 1. By an approved state program as determined by the Secretary of the Interior; or
 - 2. Directly by the Secretary of the Interior in States without approved programs.

HOME OCCUPATION - An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood. *See amendment #784*

HOSPITAL - An institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central service facilities, and staff offices that are an integral part of the facilities.

INDUSTRIAL COMPLEX - A planned, coordinated development of a tract of land with two or more separate industrial buildings.

INN - A residential structure converted to provide no more than 10 rentable rooms for short-term lodging and a restaurant open to the general public.

IMPERVIOUS SURFACE - Any material that prevents the infiltration of stormwater into previously undeveloped land.

JUNK YARD - A parcel of land on which waste material or inoperative vehicles and other machinery are collected, stored, salvaged, or sold.

LAND DEVELOPMENT - Any of the following activities:

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

LOT - Any parcel of land, regardless of size, intended as a unit for transfer or ownership, use or improvement, or for development.

LOT AREA - The area contained within the property lines of a lot excluding space within all streets rights-of-way and within all permanent drainage easements, but including the areas of all other easements.

LOT COVERAGE - The area of a site covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features.

LOT LINE - The property boundary of a parcel of land.

LOT LINE, FRONT - The property boundary of a parcel of land measured at the street right-of-way line.

LOT WIDTH - The distance between the side lot lines of a parcel of land.

LUMEN - Unit used to express the light output of a lamp or other illumination fixture.

MANUFACTURED HOME PARK - a parcel (or contiguous parcels) of land which has been planned and improved that it contains two (2) or more manufactured home lots for the placement thereon of manufactured homes.

MANUFACTURED HOME - A transportable, single-family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeat towing, which arrived at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constricted so that it may be used without a permanent foundation. A Manufactured Home shall also include park trailers, travel trailers, recreational vehicles, and other similar vehicles which are placed on a site for more than 180 consecutive days.

MEDICAL INSTITUTION - Any medical facility providing medical care for humans other than that of a hospital or Medical Office.

MEDICAL OFFICE - A facility providing either general practitioner medical care or specialized medical care for humans on a out-patient basis with no more than three (3) licensed doctors providing such services.

MIXED USE - A single structure that normally includes both commercial and residential space, constructed in a unified manner.

NEW CONSTRUCTION - Structures for which the start of construction commenced on or after December 4, 1979, and includes any subsequent improvements thereto.

NON-COMMERCIAL - A property or use, that does not involve sales, production or any other venture intending to generate a profit.

NONCONFORMING - A building or other structure, use, lot or sign which, by reason of design, size, or use, does not conform with the requirements of the district, or districts, in which it is located, or other applicable provisions of this Ordinance.

ONE HUNDRED (100) YEAR FLOOD - a flood that, on the average is likely to occur once every one hundred (100) years (i.e. that has a one (1) percent chance of occurring each year, although the flood may occur in any year).

OUTDOOR DISPLAY - The exhibition of goods for retail purposes outside of the principal structure.

OUTDOOR STORAGE - The keeping, in an unroofed area, of any good, junk, material, merchandise, or vehicle in the same place for more than twenty-four (24) hours.

PARKING, SHARED OR JOINT - The development and use of a parking area on one property or more for joint use by two or more businesses.

RESTAURANT, WITH DRIVE-THROUGH SERVICE - An establishment that delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles.

RESTAURANT, WITHOUT DRIVE-THROUGH SERVICE - An establishment that serves food and beverages primarily to persons seated within the building.

RESIDENTIAL CONVERSION - The alteration of an existing single-family detached dwelling to accommodate two (2) or more dwelling units. This implies a change in density and housing type of an existing dwelling, resulting in the creation of party walls and independent cooking, lavatory and sleeping facilities.

RIGHT-OF-WAY - The total width of any land reserved or dedicated as a street, alley, crosswalk or for other public or semi-public purposes.

SETBACKS - The minimum distance principal structures or buildings shall be placed away from a given lot line as prescribed by this Ordinance:

FRONT YARD SETBACK - A yard extending the full width of the front lot line and extending in depth from such lot line to the nearest point of any buildings on the lot.

REAR YARD SETBACK - A yard extending the full width of the lot along the rear lot line and extending in depth from the rear lot line to the nearest point of any building on the lot.

SIDE YARD SETBACK - A yard extending the full depth of the lot along a side lot line and extending in width from such lot line to the nearest point of any building on the lot.

SHOPPING CENTER - The multiple use of a single property for the retail sale of goods and merchandise, or personal services.

SIGHT DISTANCE - The required length of roadway visible to a driver of a passenger vehicle at any given point on the roadway when the view is unobstructed by traffic. Sight distance measurements shall be made from a point four and one-half (4.5) feet above the centerline of the road surface to a point one-half (0.5) foot above the center line of the road surface.

SIGN - Any letter, word, model, device, or representation intended as an announcement, direction or advertisement which includes those that are free-standing, attached to another structure, or painted on an exterior wall of a building or other structure.

BILLBOARD - A sign which directs attention to another location where a business or profession is conducted, or to where a commodity or service is sold, offered or manufactured, or to where an entertainment is offered.

FREE STANDING SIGNS - A sign supported by one or more upright poles, columns, or braces placed in or on the ground and not attached to any building or structure.

ILLUMINATED SIGNS - A sign that is lit by a source that is attached to or otherwise a part of the sign.

OFF-SITE DIRECTIONAL SIGNS - A sign that indicates the location of a business or other use, but which is on a property or lot not associated with that business or use.

ROOF SIGNS - A sign that is affixed flush to the roof of a structure and erected parallel to that roof.

TEMPORARY SIGNS - A temporary sign:

- 1) Used to offer a premises for sale, rent or development, or
- 2) Advertises the services of building trades during construction or alteration of the premises upon which the sign is located.

WALL SIGN - Signs that are affixed flush to an outside wall of a structure and erected parallel to that wall.

SPECIAL EXCEPTION - A use permitted in a particular zoning district when approved pursuant to the provisions of the Zoning Hearing Board (See Section 15.10).

STREET - A public or private thoroughfare used, or intended to be used, for the primary passage or travel by motor vehicles. Streets do not include alleys or driveways.

STRUCTURE - Anything constructed or erected on the ground or attached to the ground including, but not limited to, buildings, sheds, manufactured homes and other similar improvements.

SUBSTANTIAL DAMAGE - Damage from any cause sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent or more of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. Substantial Improvement includes structures which have incurred "substantial damage" regardless of the actual repair work performed. This term does not include either:

- A. Any project for improvement of a structure to correct existing violations of state and local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

TAVERN - An establishment where food and beverages, including alcoholic beverages, are sold either to be consumed on the premises or for take-out.

TRAILER - An enclosed structure constructed of metal, wood, plastic or cloth fabric designed for human occupancy, which now is, or ever was, intended to be removed either under its own power or by other means of locomotion, regardless of its size, composition, design, or general appearance; and which structure, if it were to be moved on a public highway within the Commonwealth of Pennsylvania, would be required to be licensed in accordance with the provisions of the Motor Vehicle Code.

UNIFORMITY RATIO - A measurement of footcandle levels comparing the highest footcandle level to the lowest footcandle level in a given area.

VARIANCE - Relief to the requirements of this Ordinance granted by the Zoning Hearing Board, pursuant to the provisions set forth in Section 15.9.

VEHICULAR ACCESS - A way of ingress and egress for motor vehicles from any public street to a use or lot.

ZONING DISTRICT - A defined area subject to specific regulations as defined by the Borough Zoning Ordinance.

ZONING DISTRICT, BASE - An area or areas of land delineated on the Borough Zoning Map subject to regulations that are specific for that delineated area or areas.

ZONING DISTRICT, OVERLAY - An area or areas of land, identified by the presence of predetermined and defined features, subject to regulations specific for those defined areas.

PART 3
Classifications of Districts

Section 3.1. Establishment of Districts.

- A. The Borough shall be divided into different districts, each with a specified purpose and intent to implement this Ordinance and the goals of the Borough Comprehensive Plan.
- B. Every parcel of land and every building or other structure in the Borough, except as otherwise provided by law or this Chapter of the Borough Code, shall be subject to the provisions specified for the district in which it is located.
- C. A building may be erected, used or occupied, and a lot may be used or occupied only according to the explicit standards and criteria of the Zoning District in which the building or lot is located, including all applicable Borough Codes.

Section 3.2. Classes of Districts.

- A. Base Districts. For the purpose of this Chapter of the Borough Code all land area within the Borough of Avondale is hereby divided into one of the six (6) classes of districts which shall be designated as follows:

- R-1 Residential District
- R-2 Residential District
- FD Flexible Use District
- TC Town Center District
- C General Commercial District
- I Industrial District

- B. Overlay District. In addition to the base district provisions, certain land areas shall be subject to additional provisions contained in this Chapter of the Borough Code. These areas shall be known as Overlay Districts regulated through the overlay district provisions as well as the underlying base district provisions contained in this Chapter. In addition to the above mapped districts, the following five (5) overlay districts comprising the Environmental Protection (EP) Overlay District shall be applied:

- Carbonate Overlay District
- Flood Hazard Overlay District
- Wetland Protection Overlay District
- Steep Slope Overlay District
- Woodland Overlay District

In the event that the Overlay District regulations, as defined by the appropriate Part(s) of this Chapter of the Borough Code, are found to be non-applicable, the underlying or base district shall be applicable to said parcel.

Section 3.3. Zoning Map. The location and boundaries of districts shall be as shown on the current map attached to and made a part of this Chapter of the Borough Code. This map shall be known as the "Zoning Map of Avondale Borough." Said current map and all notations, references, and data shown thereon are hereby incorporated by reference into this Ordinance, and shall be as much a part of this Ordinance as if all were fully described herein.

Section 3.4. District Boundaries. The boundaries between districts are, unless otherwise indicated, either the center lines of streets, alleys, water-courses, rights-of way of public utilities, or railroad rights-of-way. Where the boundaries of a single district are indicated as including directly opposite sides of a street, alley, lake, or watercourse, right-of-way of a public utility, or a railroad right-of-way, for any portion of its length, the district so indicated shall be construed to apply to the entire bed of such street, alley, watercourse, right-of-way of such public utility, or railroad right-of-way, lying within such portion of its length. Where uncertainty exists as to the location of any said boundaries as shown on the Zoning Map, the following rules shall apply:

- A. Where a boundary is indicated as approximately following the center-line of a street, alley, or watercourse, right-of-way of a public utility, or railroad right-of-way, such center-line shall be construed to be such boundary.
- B. Where a district boundary is indicated as approximately following a lot line or other property line, such lot line or property line shall be construed to be such boundary.
- C. Where a district boundary divides a lot or runs through undivided property, the location of such boundary, unless otherwise specified by figures on the Zoning Map, shall be determined by the use of the scale appearing on said map.
- D. Where figures are shown on the Zoning Map between a street and a district boundary, they shall indicate that the district boundary runs parallel to the street line at a distance equivalent to the number of feet so indicated. Where scaled distances do not agree with such figures, the figures shall control.

Section 3.5. Boundary Tolerances. Where a district boundary line divides a lot held in single and separate ownership at the effective date of this Chapter of the Borough Code, the use regulations applicable to the less restricted district shall extend over the portion of the lot in the more restricted district a distance of not more than fifty (50) feet beyond the district boundary line.

PART 4
R-1 Residence District

Section 4.1. District Purpose.

This Part is created to:

- A. Provide for residential development within the Borough that is designed within the constraints of the surroundings;
- B. Maintain adequate light, air and privacy for the residential community by reasonably controlling the spacing and height of buildings and other structures;
- C. Protect the community from fire, pollution, vibration, noise, and other unacceptable circumstances; and
- D. Protect and preserve the natural resources of the Borough.

Section 4.2. Use Regulations.

A. Uses Permitted By Right:

A building may be erected or used, and a lot may be used or occupied for any one of the following uses and no other by right:

1. Agricultural uses.
2. Single-family detached dwelling.
3. Municipal building and municipal use.
4. Any of the following accessory uses shall be permitted on the same lot when in compliance with the provisions of this Part and Part 12:
 - A. Shed or other yard storage structure;
 - B. Private garage;
 - C. Swimming pool;
 - D. Non-commercial greenhouse;
 - E. Home occupation; and
 - F. Professional office or studio;
5. Signs, when erected and maintained in accordance with Part 13 of this Ordinance.

Fences see Amendment #181

B. Uses Permitted by Special Exception:

A building may be erected or used, and a lot may be used or occupied for any one of the following uses and no other, when approved as a special exception:

1. Single-family semi-detached dwelling (Twin).
2. Two family dwelling (Duplex).
3. Residential conversion, in accordance with Section 12.6.
4. Bed and Breakfast.
5. Educational institution.
6. Cemetery.
7. Religious use.

Section 4.3. Area and Bulk Regulations.

Uses within the R-1 district shall comply with the following standards:

	<u>Single-family detached dwelling</u>	<u>Single-family semi-detached and two family dwellings</u>	<u>All other uses</u>
A. Minimum Lot Area	10,000 square feet	8,400 square feet per dwelling	10,000 square feet
B. Minimum Lot Width at			
1. Street Line	fifty (50) feet	fifty (50) feet	seventy (70) feet
2. Building Line	seventy (70) feet	fifty (50) feet	seventy (70) feet
C. Maximum Lot Coverage	thirty-five (35) percent	thirty-five (35) percent	thirty five (35) percent
D. Minimum Front Yard Setback	thirty (30) feet	thirty (30) feet	thirty (30) feet
E. Minimum Rear Yard Setback	twenty-five (25) feet	twenty-five (25) feet	thirty (30) feet
F. Minimum Side Yard Setback	The combined minimum of both side yards shall be no less than thirty (30) feet, but in no case shall either be less than twelve (12) feet.	Twenty (20) feet for sides not attached to other buildings.	fifteen (15) feet
G. Minimum lot line setback for accessory structures	three (3) feet	three (3) feet	ten (10) feet

Section 4.4. Height Regulations. No building shall exceed thirty-five (35) feet in height, provided that such height limit may be exceeded by one (1) foot for each foot by which the width of each side yard is increased beyond minimum side yard requirements up to a maximum height of forty-five (45) feet.

Section 4.5 Parking. Parking shall be in conformance with the provisions of Section 11.7.

PART 5
R-2 Residence District

Section 5.1. District Purpose.

This Part is created to:

- A. Provide for residential development within the Borough that compliments the established neighborhood character;
- B. Maintain adequate light, air and privacy for the residential community by reasonably controlling the spacing and height of buildings and other structures;
- C. Maintain the traditional Borough development pattern; and
- D. Protect the community from fire, pollution, vibration, noise, and other unacceptable circumstances.

Section 5.2. Use Regulations.

A. Uses Permitted By Right:

A building may be erected or used, and a lot may be used or occupied for any one of the following uses and no other by right:

- 1. Single-family detached dwelling.
- 2. Single-family semi-detached dwelling (Twin).
- 3. Two family dwelling (Duplex).
- 4. Single-family attached dwelling (Townhouse) in accordance the area and bulk regulations established in Section 6.3.C.
- 5. Municipal building and municipal use.
- 6. Any of the following accessory uses shall be permitted on the same lot when in compliance with the provisions of this Part and Part 12:
 - a. Shed or other yard storage structure;
 - b. Private garage;
 - c. Swimming pool;
 - d. Non-commercial greenhouse;
 - e. Home occupation; and
 - f. Professional office or studio.
- 7. Signs, when erected and maintained in accordance with Part 13 of this Ordinance.

B. Uses Permitted by Special Exception:

A building may be erected or used, and a lot may be used or occupied for any one of the following uses and no other, when approved as a special exception:

1. Single-family attached dwellings for the elderly in accordance with Section 12.9.
2. Residential conversion, in accordance with Section 12.6.
3. Bed and Breakfast.
4. Telephone central office; utility lines; electric substation.
5. Educational institution.
6. Religious use.

C. Uses Permitted by Conditional Use:

A building may be erected or used, and a lot may be used or occupied for any one of the following uses and no other, when approved as a conditional use:

1. Personal service shops.

Section 5.3. Area and Bulk Regulations.

Uses within the R-2 district shall comply with the following standards:

- | | |
|--|---|
| A. Minimum Lot Area Per Unit | 6,000 square feet |
| B. Minimum Lot Width at Street Line | forty (40) feet |
| C. Minimum Lot Width at Building Line | forty (40) feet |
| D. Maximum Building Coverage | forty (40) percent |
| E. Maximum Lot Coverage | fifty (50) percent |
| F. Front Yard Setback | In accordance with Section 5.5 |
| G. Minimum Rear Yard Setback | twenty-five (25) feet |
| H. Minimum Side Yard Setback | The combined minimum of both side yards shall be no less than fifteen (15) feet, but in no case shall either be less than six (6) feet. |
| I. Minimum lot line setback for accessory structures | three (3) feet |

Section 5.4. Height Regulations.

No building shall exceed thirty-five (35) feet in height, provided that such height limit may be exceeded by one (1) foot for each foot by which the width of each side yard is increased beyond minimum side yard requirements up to a maximum height of forty-five (45) feet.

Section 5.5. Determination of Front Yard Setback.

The front yard setback in the R-2 District shall be determined according to the following:

- A. When the location of a structure is proposed on a street where structures exist on the same side of the block of the primary street for the proposed use, the front yard setback shall be determined as follows:
 - 1. The minimum front yard setback shall be equal to the smallest front yard setback for those structures on the same block and street as the proposed use, but in no case shall the minimum front yard setback be less than five (5) feet.
 - 2. The maximum front yard setback shall be equal to three (3) feet greater than the average of the setbacks of all structures on the same block and street as the proposed use.
- B. When a structure is proposed to be located on a newly constructed street, or on a street that has no existing structures on the same side of the street as the proposed structure, the front yard setbacks shall be determined according to the following:
 - 1. The minimum front yard setback shall be five (5) feet.
 - 2. The maximum front yard setback shall be twenty (20) feet.

Section 5.7. Parking. Parking shall be in conformance with the provisions of Section 11.7.

PART 6
(FD) Flexible Use District

Section 6.1. District Purpose.

The Flexible Use District is created to:

- A. Allow for a variety of housing types to occur within the Borough limits;
- B. Provide for uses that may not conform to the traditional development pattern found in the R-2 District;
- C. Promote innovative residential development patterns in unified development proposals;
- D. Maintain adequate light, air and privacy for the residential community by controlling the spacing and height of buildings and other structures;
- E. Allow for a mix of residential and non-residential uses to continue to occur; and
- F. Protect the community from fire, pollution, vibration, noise, and other unacceptable circumstances.

Section 6.2. Use Regulations.

A. Uses Permitted By Right.

A building or other structure may be erected, or used, and a lot may be used or occupied for any one of the following purposes and no others:

- 1. Single-family detached dwelling.
- 2. Municipal building and municipal use.
- 3. Inn
- 4. Fire or police station.
- 5. Any of the following accessory uses shall be permitted on the same lot with the provisions of this Part and Part 12:
 - a. Shed or other yard storage structure;
 - b. Private garage;
 - c. Private swimming pool;
 - d. Non-commercial greenhouse;
 - e. Home occupation; and
 - f. Professional office or studio.
- 6. Signs, when erected and maintained in accordance with Part 13 of this Ordinance.

B. Uses Permitted By Special Exception

1. Single-family semi-detached dwelling (Twin).
2. Two-family dwelling.
3. Single-family attached dwelling (Townhouse).
4. Elderly housing.
5. Multi-family dwelling in accordance with Section 12.16.
6. Bed and Breakfast.
7. Business office or studio which may include a real estate office, insurance office, bank or financial office, doctor's, or similar business office.
8. Personal service shop, including barber shop, beauty shop, tailor shop, or dressmaking shop.
9. Store for retail purposes only, provided the maximum sales area does not exceed two thousand (2,000) square feet.
10. Restaurant, with no drive-through service.
11. Contractor or general service shop, including plumbing, heating, carpentry, welding, cabinetmaking, furniture repair; the production of craft products, and those accessory uses reasonably necessary for such production. "Craft products" shall include, but not be limited to, pottery, woodwork, weaved goods, paintings, and sculptures.
12. Mixed use, in accordance with Section 12.15.
13. Religious use.
14. Residential conversion, in accordance with Section 12.6.

C. Uses Permitted By Conditional Use.

1. Manufactured home park in accordance with Section 12.14.
2. Automotive sales provided service is not performed on-site.
3. Shopping center, in accordance with Section 12.19.
4. Tavern.

Section 6.3. Area and Bulk Regulations.

Uses within the Flexible Use District shall comply with the following standards:

- A. Single-family detached, Single-family semi-detached (Twin), and Two-family dwellings shall comply with the area and bulk regulations listed within Section 4.3, R-1 Residential District.

B. Multi-family dwellings shall comply with the following area and bulk regulations:

- | | |
|------------------------------------|--------------------------|
| 1. Minimum Lot Area per Dwelling | 3000 square feet |
| 2. Minimum Lot Width per Structure | |
| a. at building line | seventy (70) feet |
| b. at street line | seventy (70) feet |
| 3. Maximum Units per Structure | six (6) units |
| 4. Maximum Lot Coverage | fifty (50) percent |
| 5. Maximum Building Coverage | thirty five (35) percent |
| 6. Minimum Front Yard | thirty-five (35) feet |
| 7. Minimum Side Yard | twenty (20) feet |
| 8. Minimum Rear Yard | thirty-five (35) feet |
| 9. Minimum Building Separation | twenty-five (25) feet |

C. Single-family attached dwellings (Townhouse) shall comply with the following area and bulk regulations:

- | | |
|--|--------------------------|
| 1. Minimum Lot Area per Dwelling | 3000 square feet |
| 2. Minimum Lot Width per Dwelling | |
| a. at building line | twenty-five (25) feet |
| b. at curb line | twenty-five (25) feet |
| 4. Maximum Units per Structure | six (6) units |
| 5. Maximum Lot Coverage | fifty (50) percent |
| 6. Maximum Building Coverage | thirty five (35) percent |
| 7. Minimum Front Yard | twenty (20) feet |
| 8. Minimum Side Yard for units end units | ten (10) feet |
| 9. Minimum Rear Yard | twenty-five (25) feet |
| 10. Accessory Structure Setback | three (3) feet |
| 11. Minimum Building Separation | twenty-five (25) feet |

D. Manufactured Home Parks shall comply with the following area and bulk standards:

1. Minimum Tract Size five (5) acres
2. Minimum Tract Width at Street Line one hundred (100) feet
3. Minimum Manufactured Home Lot Size for:
 - a. single-wide Manufactured Home 3000 square feet
 - b. double-wide Manufactured Home 5000 square feet
4. Minimum Manufactured Home Lot Width for:
 - a. single-wide Manufactured Home twenty-five (25) feet
 - b. double-wide Manufactured Home thirty-five (35) feet
5. Maximum Lot Coverage forty (40) percent
6. Minimum Required Open Space twenty (20) percent
7. Maximum Gross Density eight (8) homes per acre
8. Manufactured Home Setback Requirements
 - a. From public street right-of-way or tract line fifty (50) feet
 - b. From street line of service street twenty-five (25) feet
 - c. From another Manufactured Home twenty-five (25) feet
 - d. Accessory uses
 - (1) from park street ten (10) feet
 - (2) from public street fifty (50) feet

E. Shopping centers shall comply with the area and bulk regulations set forth in Section 12.19.

F. All other permitted uses shall comply with the following area and bulk standards:

1. Minimum Lot Area 12,000 square feet
2. Minimum Lot Width
 - a. at building line seventy (70) feet
 - b. at street line fifty (50) feet
3. Maximum Lot Coverage forty (40) percent

- | | |
|-------------------------------|--------------------------|
| 4. Maximum Building Coverage | twenty five (25) percent |
| 5. Minimum Front Yard Setback | thirty (30) feet |
| 6. Minimum Rear Yard Setback | twenty-five (25) feet |
| 7. Minimum Side Yard Setback | twenty (20) feet |

Section 6.4. Height Regulations.

No building shall exceed thirty-five (35) feet in height, provided that such height limit may be exceeded by one (1) foot for each foot by which the width of each side yard is increased beyond minimum side yard requirements up to a maximum height of forty-five (45) feet.

Section 6.5. Additional Standards.

All uses within the Flexible Use District shall comply with the following standards:

- A. Design Standards as established in Part 11.
- B. Regulations governing the use of signs as established in Part 13.
- C. Regulations relating to the use of floodplain, steep slope, wetland, and woodland areas as established in Part 10.

PART 7
(TC) Town Center District

Section 7.1. District Purpose.

The TC District is intended to:

- A. Recognize the historic commercial center of the Borough;
- B. Provide a wide range of commercial and mixed use opportunities that are compatible in a business district setting;
- C. Facilitate pedestrian travel for residents of the Borough;
- D. Promote the use of off-site or shared parking facilities; and
- E. Maintain adequate light, air and privacy for the residential community by reasonably controlling the spacing and height of buildings and other structures.

Section 7.2. Use Regulations in the TC District.

In TC District, a building may be erected or used, and a lot may be used or occupied, for any one of the following purposes and no other:

A. Uses By Right.

The following uses and no others shall be permitted By Right in the TC District:

- 1. Individual offices.
- 2. Personal service shop, including barber shop, beauty shop, tailor shop, dressmaking shop.
- 3. Store for retail purposes only, provided the maximum sales area does not exceed two thousand (2,000) square feet, except where a proposed use shall use an existing structure in which case the maximum sales area shall not exceed five thousand (5,000) square feet per use.
- 4. Rooming, boarding, or tourist home.
- 5. Confectionery or bakery shop, provided that all products shall be sold at retail on the premises.
- 6. Small scale printing establishment.
- 7. Contractor or general service shop, including plumbing, heating, carpentry, welding, cabinetmaking, furniture repair; the production of craft products, and those accessory uses reasonably necessary for such production.
- 8. Post office.
- 9. Police, fire, or emergency medical service station.
- 10. Commercial garage or commercial parking facilities as a principal use.

11. Municipal Uses.

12. Restaurant, without drive-through service.

13. Accessory use on the same lot with and customarily incidental to any of the above permitted uses.

B. Uses Permitted by special exception

In the TC District any one of the following uses shall be permitted as a special exception when approved by the Borough Zoning Hearing Board:

1. Mixed use in accordance with Section 12.15.
2. Club or lodge organized for civic, fraternal or social purposes, provided that the chief activity shall not be one which is customarily carried on as a business, and provided that the buildings and services shall be for the use of members and their guests only.
3. Hotel.
4. Catering establishment.
5. Laundromat, or automatic self-service laundry.
6. Laundry or dry cleaning store, where cleaning occurs off-site.
7. Office building.
8. Medical offices.

C. Uses Permitted by Conditional Use:

A building may be erected or used, and a lot may be used or occupied for any one of the following uses and no other, when approved as a conditional use:

1. Gas station.
2. Automotive repair station.

Section 7.3. Area and Bulk Regulations.

The following Area and Bulk Regulations shall apply to all uses in the Town Center District.

- | | |
|-------------------------------|----------------------|
| A. Minimum Lot Area. | 3,000 square feet |
| B. Maximum Building Coverage. | Seventy (70) percent |
| C. Maximum Lot Coverage. | Ninety (90) percent |

D. Yard Setback Requirements.

Front, side and rear yards shall be provided on each lot as follows:

1. Minimum Front Yard. Five feet (5'), except in accordance with Section 7.5.
2. Minimum Side Yard. None required for a building used for commercial purposes, except that where a lot abuts a Residential District, or a street on the side lot line, a side yard shall be provided which shall not be less than ten (10) feet in width. In any case where side yards are provided although they are not required, each such side yard shall not be less than five (5) feet in width.
3. Minimum Rear Yard. Ten feet (10')

E. Maximum Height Regulations.

Forty-five feet (45')

Section 7.4. Additional Standards.

All uses in the TC District shall comply with the following additional standards:

- A. Design Standards established in Part 11.
- B. Regulations governing the use of signs as established in Part 13.
- C. Regulations relating to the use of floodplain, steep slope, wetland, and woodland areas as established in Part 10.

Section 7.5. Front Yard Exception.

The front yard setback of a proposed building may be decreased in depth to the average alignment of existing buildings within one hundred (100) feet on each side of the proposed building, and within the same block, if such alignment of existing buildings is less than the front yard required for the district.

PART 8
(C) Commercial District

Section 8.1. District Purpose.

The C Commercial District is created to:

- A. Provide for a wide range of commercial use opportunities;
- B. Focus highway oriented uses in appropriate areas of the Borough;
- C. Provide uses that serve both local and regional residents; and
- D. Maintain adequate light, air and privacy for the residential community by reasonably controlling the spacing and height of buildings and other structures.

Section 8.2. Use Regulations in C Commercial District.

In the C District, a building may be erected or used, and a lot may be used or occupied, for any one of the following purposes and no other:

A. Uses By Right.

The following uses and no other shall be permitted in the C Commercial District By Right:

- 1. Commercial day care or pre-school.
- 2. Office or office building, which may include any of the following uses:
 - a. Real estate;
 - b. Insurance;
 - c. Bank or financial institution; and
 - d. Manufacturer's office, or similar business office.
- 3. Catering establishment.
- 4. Personal service shop, including barber shop, beauty shop, tailor shop, dressmaking shop.
- 5. Retail store, provided that no goods shall be displayed outside of the store.
- 6. Rooming, boarding, or tourist home.
- 7. Confectionery or bakery shop.
- 8. Laundromat, or automatic self-service laundry.
- 9. Large scale newspaper or job printing establishment.

10. Motor vehicle service station, motor vehicle sales agency, public garage or automobile repair shop.
 11. Contractor or general service shop, including plumbing, heating, carpentry, welding, cabinetmaking, furniture repair; the production of craft products, and those accessory uses reasonably necessary for such production. "Craft products" shall include, but not be limited to, pottery, woodwork, weaved goods, paintings, and sculptures.
 12. Commercial greenhouse.
 13. Lumber yard, or outdoor storage of building materials or of products of manufacturing uses permitted in the Borough, but not including a junk yard, provided that the area used for such use is suitably screened from the surrounding area by a fence, wall, planting or other barrier not less than six (6) feet in height.
 14. Laundry or dry cleaning drop-off and delivery shop.
 15. Fire or police station.
 16. Municipal building or use.
 17. Post office.
 18. Public utility office, substation, or other use.
 19. Any use of the same general character as any of the above permitted uses.
 20. Accessory use on the same lot with and customarily incidental to any of the above permitted uses, which shall include:
 - a. Storage shed.
 - b. Parking lot.
 21. Truck and farm equipment sales and service.
 22. Restaurant, without drive-through service.
- B. Uses Permitted as Special Exceptions.

Any one of the following uses shall be permitted when approved as a special exception by the Borough Zoning Hearing Board:

1. Hotel.
2. Restaurant, with drive-through.
3. Theater.
4. Shopping center, to include any combination of permitted uses, in accordance with Section 12.19.
5. Mixed use in accordance with Section 12.15.

6. School or educational institution.
 7. Recreation, or assembly, including bowling alley, skating rink, or similar establishment.
 8. Club or lodge organized for civic, fraternal or social purposes, provided that the chief activity shall not be one which is customarily carried on as a business, and provided that the buildings and services shall be for the use of members and their guests only.
 9. Mortuary.
 10. Laundry and dry cleaning plant.
 11. Gasoline station, which may include a convenience store.
 12. Garage or parking facility as a principal use.
- C. Uses Permitted by Conditional Use:
- A building may be erected or used, and a lot may be used or occupied for any one of the following uses and no other, when approved as a conditional use:
1. Tavern.
 2. Quarry or mining operations.

Section 8.3. Area and Bulk Regulations.

The following Area and Bulk Regulations shall apply to all uses in the C District.

- | | |
|-------------------------------|--------------------------|
| A. Minimum Lot Area. | 3,000 square feet. |
| B. Maximum Building Coverage. | Sixty (60) percent |
| C. Maximum Lot Coverage. | Eighty-five (85) percent |
| D. Yard Setback Requirements. | |

Front, side and rear yards shall be provided on each lot as follows:

- | | |
|--------------------------------|---------------------------|
| 1. Minimum Front Yard Setback. | Thirty-five (35) feet |
| 2. Minimum Side Yard Setback. | Ten feet (10) feet |
| 3. Minimum Rear Yard Setback. | Twenty feet (20) feet |
| E. Maximum Height Regulations. | Forty-five feet (45) feet |

Section 8.4. Additional Standards.

All uses in the C District shall comply with the following additional standards:

- A. Design Standards established in Part 11.
- B. Regulations governing the use of signs as established in Part 13.
- C. Regulations relating to the use of floodplain, steep slope, wetland, and woodland areas as established in Part 10.
- D. Access and traffic control standards according to Section 11.8.

PART 9
(I) Industrial District

Section 9.1. District Purpose. The (I) Industrial District is created to:

- A. Provide for a wide range of industrial use opportunities in the Borough;
- B. Limit potential conflict between industrial uses and other, less intensive uses in the Borough; and
- C. Maintain adequate light, air and privacy for uses in the community by reasonably controlling the spacing and height of buildings and other structures.

Section 9.2. Use Regulations.

In the I District, a building may be erected or used, and a lot may be used or occupied, for any one of the following purposes and no other:

A. Uses permitted by right:

The following uses, and no others, shall be permitted in the (I) Industrial District By Right:

- 1. Manufacturing or assembly operations.
- 2. Wholesale sales or distribution.
- 3. Packaging.
- 4. Automobile sales and/or service establishment.
- 5. Public utility uses.
- 6. Indoor or outdoor recreational facility.
- 7. Municipal uses.
- 8. Fire or police uses.
- 9. Commercial greenhouse or nursery.
- 10. Contractor or general service shop.
- 11. Large scale newspaper or printing establishment.
- 12. Lumber yard.
- 13. Medical or research facilities.
- 14. Theater.
- 15. Accessory uses to those permitted in the (I) Industrial District.

B. Uses permitted by special exception

The following uses and no other shall be permitted in the (I) Industrial District when approved as a special exception by the Borough Zoning Hearing Board:

1. Cemetery.
2. Garage or parking facility.
3. Gas station which may include a convenience store.
4. Automotive repair shop.
5. Laundromat, dry cleaning including a dry cleaning plant.
6. Mini-Warehouses/Mini-Storage.
7. Offices.
8. Post office.
9. Storage yard, excluding the storage of hazardous materials.
10. Billboard as a principal use in accordance with Section 13.2.Q.

C. Uses Permitted by Conditional Use:

A building may be erected or used, and a lot may be used or occupied for any one of the following uses and no other, when approved as a conditional use:

1. Refining of raw material.
2. Industrial complex containing two or more individual uses.
3. Junk yard, in accordance with Section 12.12.
4. Fuel storage and/or distribution, when fuel storage containers are above ground.
5. Storage of hazardous material.

Section 9.3. Area Regulations.

- | | |
|----------------------|--------------------|
| A. Minimum Lot Size: | 20,000 square feet |
| B. Maximum Coverage: | |
| 1. Building Coverage | forty (40) percent |
| 2. Lot Coverage | sixty (65) percent |

C. Minimum Setbacks:

- | | |
|---------------|------------------------|
| 1. Front Yard | thirty-five (35) feet |
| 2. Side Yards | twenty-five (25) feet |
| 3. Rear Yard | twenty-five (25) feet. |

D. Maximum Height Regulations:

No building shall exceed forty-five (45) feet.

Section 9.4. Screening Requirements.

Screening shall be required according to Section 11.2, where a proposed use borders a residential use or residential district.

Section 9.5. Performance Standards.

All uses shall comply with the performance standards setforth in Section 11.9.

Section 9.6. Parking.

Parking shall be provided in accordance with the provisions of Section 11.7.

Section 9.7. Lighting.

Lighting shall comply with the standards of Section 11.3.

Section 9.8. Outdoor Storage.

Outdoor storage of any material, for any period of time shall comply with the following regulations:

- A. Screening shall be required in accordance with Section 11.2.
- B. Stormwater shall be contained on-site in compliance with the Borough Subdivision and Land Development Ordinance.
- C. Outdoor storage areas shall be considered impervious cover in the calculation of lot coverage and shall count toward the maximum lot coverage percentage.

PART 10
Environmental Protection Standards

Section 10.1. General Provisions.

A. Purpose.

The purpose of this Article is to:

1. Conserve the natural resources of the Borough;
2. Fulfill the goals of the Borough Open Space, Recreation and Environmental Resource Plan, and the goals of the Borough Comprehensive Plan;
3. Establish performance standards which apply to uses which may disturb sensitive natural resources, including but not limited to floodplain, steep slope, woodland, wetland, and high yield aquifer areas; and
4. Implement the provisions of the Pennsylvania Municipalities Planning Code, Section 605(2).

B. Overlay Districts

The natural resources regulated in this Part shall be managed as overlay districts to the otherwise applicable zoning districts as delineated on the Borough Zoning Map. The provisions established in the Environmental Protection (EP) Overlay District and in each of the five (5) overlay districts comprising the Environmental Protection (EP) Overlay District are in addition to those established by the underlying zoning districts. Should the Environmental Protection Overlay District delineated in this Article be determined as inapplicable to any tract by reason of amendment by Borough Council, interpretation by the Borough Engineer or Zoning Hearing Board, or the decision of a court of competent jurisdiction, the underlying zoning provisions shall be deemed solely applicable.

C. Rules of Interpretation of District Boundaries

The boundaries of the overlay districts of this article shall be determined in the following manner:

1. Initial interpretation of the overlay district boundaries shall be made by the Borough Zoning Officer.
2. Where a discrepancy exists as to the exact location of such boundaries, as in the case of a conflict between mapped boundaries and actual field condition, such interpretation shall be made by the Borough Engineer with a written report submitted to Borough Council, the cost of such engineering reports shall be borne by the applicant and property owner.
3. Any party aggrieved by any determination by the Borough Engineer may appeal their case before the Zoning Hearing Board according to the provisions set forth in Part 15 of this Ordinance.

D. Abrogation and Greater Restrictions

This Article and the regulations set forth for each district within this Article supersede any other conflicting provisions which may be in effect in the identified overlay district areas. However, any other Ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Ordinance or between any of the provisions of this Section, the more restrictive shall apply.

Section 10.2. Carbonate Overlay District.

A. Statement of Intent.

The intent of this Part is to promote the general health, welfare and safety of the community by:

1. Protecting high yield aquifer areas against hazards of groundwater contamination; and
2. Limiting the amount of impervious cover that may inhibit groundwater recharge.

B. District Delineation

The Carbonate Overlay District is defined and established to be those areas of the Borough that are underlain by Cockeysville Marble as identified by geologic quadrangle maps prepared by the Pennsylvania Geological Survey or through actual field surveys.

C. Compliance

No structure or land shall hereafter be used and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this Ordinance and any other applicable Ordinances and regulations which apply to uses within the jurisdiction of this Ordinance.

D. Use Regulations

The uses permitted within the Carbonate Overlay District shall be limited to those permitted by the regulations of the underlying zoning district when in full compliance with the provisions of Section 10.2.E. and all other applicable regulations.

E. Design Regulations.

Proposed uses within the Carbonate Overlay District shall comply with the following regulations. In the event the following regulations are in conflict with any other applicable regulations, the most stringent regulation shall apply.

1. Impervious surface.

So that groundwater recharge is minimally restricted, impervious surfaces on any given site shall be limited to twenty (20) percent of the total area of the site.

2. Stormwater Retention.

Prior to granting permit for development in the Carbonate Overlay District, the applicant shall demonstrate that there will be no increase to stormwater levels off-site.

3. Underground Storage Tanks.

For underground storage of heating oil, gasoline, chemical solutions, or other substances which, if released, would constitute pollutants to ground or surface waters, the applicant may be required by the Borough to install a concrete vault or other impervious liner and/or install monitoring devices prior to the placement of any tank or other storage container.

4. Toxic or Hazardous Materials

Storage, handling, processing or disposal of toxic materials or any other substances with the potential to contaminate ground and surface water shall demonstrate to the Borough full compliance with Chapter 75 of the Rules and Regulations of the Pennsylvania Department of Environmental Protection and with the Resource Conservation and Recovery Act of 1976.

F. Prohibited Uses

The following uses are prohibited within the Carbonate Overlay District:

1. Junkyards;
2. Landfills; and
3. Quarrying and Mining Operations.

G. Issuance of Permits.

It shall be unlawful for any person, partnership, business, or corporation to undertake, or cause to be undertaken, any construction or development within the Borough unless an approved permit has been obtained from the Borough.

Section 10.3. Floodplain Hazard Overlay District.

A. General Provisions

1. Statement of Intent.

The intent of this Part is to promote the general health, welfare and safety of the community by:

- a. Lessening the exposure of life and property to the danger of flooding;
- b. Preventing the unnecessary obstruction of floodwater and alterations of natural drainage;
- c. Minimizing health hazards which result from the damage to sewage systems, the contamination of water supplies and the general unsanitary and unhealthful conditions which result from flooding;
- d. Reducing financial burdens imposed on the community, its governmental units, and its residents by minimizing flood damage in the future; and
- e. Providing for the availability of flood insurance through participation in the National Flood Insurance Program.

2. Repeal and Rescission.

This Part supersedes any other conflicting provisions which currently may be in effect in identified floodplain areas. However, any other Ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Ordinance, the more restrictive shall apply.

3. Municipal Liability.

- a. The degree of flood protection sought by the provisions of this Part is considered reasonable for regulatory purposes in the identified floodplain area(s). Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Part does not imply that areas outside any identified floodplain area, or that land uses permitted within such areas, will be free from flooding or flood damages.
- b. This Part shall not create liability on the part of the Borough of any officer or employee thereof for any flood damages that result from reliance on this Part or any administrative decision lawfully made thereunder.

B. District Delineation.

1. The identified floodplain area shall be those areas of the Borough which are subject to the one hundred (100) year flood, as shown on the Flood Insurance Rate Map (FIRM) which accompanies the Flood Insurance Study, Community Number 421473, Panels 0458 and 0459, prepared for the Borough by the Federal Emergency Management Agency (FEMA), dated November 20, 1996, or the most recent revision thereof.
2. The identified floodplain area shall consist of the following two (2) specific districts:

a. AE District.

The AE District shall be those areas identified as the AE Zone on the FIRM included in the FIS prepared by FEMA and for which one hundred (100) year flood elevations have been provided in the FIS.

b. A District.

- (1) The A District shall be those areas identified as the A Zone on the FIRM included in the FIS prepared by the FEMA and for which no one hundred (100) year flood elevations have been provided. For these areas when available, elevation and floodway information from other Federal, State, or other acceptable information shall be used to determine the one hundred (100) year elevation as well as the floodway area, if possible. When no other information is available, the elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.
 - (2) In lieu of the above, the Borough may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods, used correctly, reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Borough.
3. The identified floodplain area may be revised or modified by the Borough of Avondale where studies or information provided by a qualified agency or person documents the need for such revisions or modifications. However, prior to such change, approval must be obtained from the Federal Emergency Management Agency.

C. Compliance.

No structure or land shall hereafter be used and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this Ordinance and any other applicable Ordinances and regulations which apply to uses within the jurisdiction of this Ordinance.

D. Use Regulations

1. No construction or development shall take place within any identified floodplain area of the Borough of Avondale.
2. Repairs, improvements, or modifications to any existing structure in an identified floodplain area which amounts to less than fifty (50) percent of the market value are permitted, provided such work does not result in the expansion or enlargement of the structure.
3. Any new construction, development, use, activity, or encroachment that would cause any increase in flood heights shall be prohibited in accordance with Section 60.3.d of the National Flood Insurance Program requirements.

E. Issuance of Permits.

1. It shall be unlawful for any person, partnership, business, or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Borough unless an approved permit has been obtained.
2. Permits shall be issued by the appropriate Borough officials only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances and only after all other required permits have been obtained from any other office or agency.
3. No permit shall be issued for any proposed alteration or relocation of any watercourse within the Borough unless:
 - a. A permit has been obtained from the Pennsylvania Department of Environmental Protection, Bureau of Dams, Waterways and Wetlands;
 - b. All affected adjacent municipalities have been duly notified; and
 - c. Copies of such notifications have been forwarded to both the Federal Emergency Management Agency and the Pennsylvania Department of Community Affairs.
4. Under no circumstances shall any use, activity and/or development adversely affect the capacity of the channels of any watercourse, drainage ditch, or any other drainage facility system.
5. After the issuance of a permit, no changes of any kind shall be made to the application, permit, or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the appropriate Borough Official.

F. Variances.

If compliance with any of the requirements of this Part would result in an exceptional hardship to a prospective builder, developer, or landowner, the Avondale Zoning Hearing Board may, upon request grant relief from the strict application of the requirements. Request for variances shall be considered by the Zoning Hearing Board in accordance with the procedures contained in Section 15.9 of this Ordinance, the Pennsylvania Municipalities Planning Code, and the following;

1. If granted, a variance shall involve only the least modification necessary to provide relief. If it should be necessary to grant a variance, the applicant shall be required to comply with all applicable requirements of the National Flood Insurance Program regulations including the requirements for elevation, floodproofing and anchoring.
2. No variance shall be granted for any construction, development, use, or activity within any floodway area that would cause any increase in the one hundred (100) year flood elevation.
3. In granting any variance, the Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Part.
4. Whenever a variance is granted the Zoning Hearing Board shall notify the applicant in writing that:
 - a. The granting of a variance may result in increased premium rates for flood insurance;
 - b. Such variances may increase the risk to life and property;
 - c. In reviewing any request for a variance the Zoning Hearing Board shall consider, at a minimum, the following:
 - (1) That there is good and sufficient cause;
 - (2) That failure to grant the variance would result in exceptional hardship to the applicant;
 - (3) That the granting of the variance will neither:
 - (a) result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense; nor
 - (b) create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable State or local Ordinances and regulations.
 - (4) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions particular to the property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located;
 - (5) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in the strict conformity with the provisions of the Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;

- (6) That such unnecessary hardship has not been created by the applicant;
- (7) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, not substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare;
- (8) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue;
- (9) A complete record of all variance requests and related actions shall be maintained by the Borough. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Emergency Management Agency;
- (10) Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one hundred (100) year flood;
- (11) Notwithstanding the provisions of this Section, no variance shall be granted for:
 - (a) The commencement of any of the following activities; or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:
 - Cemeteries;
 - Junk Yards;
 - Hospitals;
 - Nursing Homes; or
 - Jails or Prisons.
 - (b) The commencement of, or any construction of, a new manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.
 - (c) Any new or substantially improved structure which will be used for the production or storage of any of the following dangerous materials or substances or which will be used for any activity requiring the maintenance of a supply (more than five hundred fifty (550) gallons or other comparable volume or any amount of radioactive substance) of any of the following dangerous materials or substances on the premises:
 - Acetone
 - Ammonia
 - Benzene
 - Calcium Carbide
 - Carbon disulfide
 - Celluloid
 - Chlorine
 - Hydrochloric acid
 - Hydrocyanic acid
 - Magnesium
 - Nitric acid and oxides of nitrogen
 - Petroleum products (gasoline, fuel, oil, etc.)
 - Phosphorus

- Potassium
- Sodium
- Sulphur and sulphur products
- Pesticides (including insecticides, fungicides, and rodenticides)
- Radioactive substances, insofar as such substances are not otherwise regulated.

Section 10.4. Wetland Protection Overlay District.

A. Statement of Intent.

It is the intent of this District to fulfill the goals and resource recommendations of the Borough Comprehensive Plan, and Open Space, Recreation, and Environmental Resource Plan through the protection of the fragile ecology of wetland resources that:

1. Assist in groundwater purification;
2. Provide habitat areas for wildlife; and
3. Collect stormwater.

B. District Delineation

The Wetland Protection District is defined and established to be those areas of the Borough that are known to be inundated or saturated by surface or groundwater at a frequency or duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas plus additional area deemed necessary to protect the wetland from siltation and other damaging effects. The delineation of the Wetland Protection District shall be based on the following:

1. All areas delineated on the National Wetland Inventory Maps, prepared by the U.S. Army Corps of Engineers.
2. Areas containing the following hydric soils as defined by the United States Soil Conservation Service, shown on the Soil Survey of Chester and Delaware Counties, Pennsylvania, United States Department of Agriculture, Soil Conservation Service, 1959:

Soil Symbol Soil Name

Bo	Bowmansville silt loam
CaA	Calvert silt loam, 0 to 3 percent slope
CaB	Calvert silt loam, 3 to 8 percent slope
CaB2	Calvert silt loam, 3 to 8 percent slope, moderately eroded
CrA	Croton silt loam, 0 to 3 percent slope
CrB	Croton silt loam, 3 to 8 percent slope
Gu	Guthrie silt loam
Mn	Melvin silt loam
OtA	Othello silt loam
Tm	Tidal Marsh
WaA	Watchung silt loam, 0 to 3 percent slope
WaB	Watchung silt loam, 3 to 8 percent slope
WaB2	Watchung silt loam, 3 to 8 percent slope, moderately eroded
WcB	Watchung very stony silt loam, 0 to 8 percent slope

We	Wehadkee silt loam
WoA	Worsham silt loam, 0 to 3 percent
WoB	Worsham silt loam, 3 to 8 percent
WoB2	Worsham silt loam, 3 to 8 percent, moderately eroded
WoC2	Worsham silt loam, 8 to 15 percent, moderately eroded
WsB	Worsham very stony silt loam, 0 to 8 percent

3. Presence, as determined by a qualified person, of wetland vegetation.
4. Presence, as determined by a qualified person, of wetland hydrology.
5. A wetland buffer area extending fifty (50) feet outward from the perimeter of the area defined by Sections 10.4.B.1. and 10.4.B.2.

C. Compliance

No structure or land shall hereafter be used and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this Ordinance and any other applicable Ordinances and regulations which apply to uses within the jurisdiction of this Ordinance.

D. Use Regulations

1. The following uses and no other shall be permitted within any land area determined to be located within the Wetland Protection District of the Borough:
 - a. Yard or open space areas provided no structure or storage facilities are located within the Wetland Protection Overlay District;
 - b. Outdoor recreational areas;
 - c. Conservation uses; and
 - d. Scientific study or other educational uses.
2. Except for those expressly permitted under Section 10.4.D.1., no use building, structure or improvement shall be permitted to encroach within any land area deemed to be within the Wetland Protection District except in full compliance with State and Federal law.
3. Uses as outlined by the regulations of the underlying zoning district may be permitted within the wetland buffer area provided the applicant gains approval from the United States Army Corps of Engineers under Act 404, and approval from the Pennsylvania Department of Environmental Protection under Chapter 105 except that no encroachment shall be permitted within the limits of the identified wetland.

E. Special Protection Standards

In order to protect wetland areas from damaging effects caused by increased runoff and siltation, proposed development that is adjacent to, or incorporated around an identified Wetland Protection Overlay District shall be required to show that:

1. Vegetation in the Wetland Protection Overlay District will not be affected by the proposed development;
2. Stormwater run-off from the proposed development will remain at pre-development levels; and
3. Sedimentation run-off associated with the proposed land development will not enter the District.

Section 10.5. Steep Slope Overlay District.

A. Statement of Intent

The intent of this section is to fulfill the goals and resource recommendations of the Borough Comprehensive Plan, and the Open Space, Recreation, and Environmental Resource Plan by:

1. Guarding against danger to life caused by potentially unstable and unsafe and hazardous building conditions;
2. Protecting against soil erosion on slopes which are difficult to stabilize once earth disturbance occurs; and
3. Limiting potential contamination to surface water caused by soil erosion.

B. District Delineation

The Steep Slope Conservation District shall be identified as any area within the Borough containing slopes of fifteen (15) percent or greater. Slope shall be as measured by the length of vertical distance divided by the length of horizontal distance calculated for every ten (10) feet of horizontal change using on-site surveys, and shall be further defined according to the following:

1. Low Intensity Slope District:

The Low Intensity Slope district shall be defined as land areas with slopes fifteen (15) to twenty-five (25) percent.

2. High Intensity Slope District:

The High Intensity Slope District is defined as land areas with slopes greater than twenty-five (25).

C. Compliance

No structure or land shall hereafter be used and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this Ordinance and any other applicable Ordinances and regulations which apply to uses within the jurisdiction of this Ordinance.

D. Low Intensity Slope District Use Regulations

1. Permitted Uses

a. Uses Permitted By Right.

Any use permitted by right in the underlying zoning district but no other shall be permitted by right within the area deemed to be the Low Intensity Slope District of the Borough when in compliance with the regulations of this Ordinance.

b. Uses Permitted By Special Exception.

Any use permitted by special exception by the regulations of the underlying zoning district shall be permitted by Special Exception in the Low Intensity Slope District when in compliance with the regulations of this Ordinance.

2. Area and Bulk Regulations.

Uses within the Low Intensity Slope District shall be required to comply with the Area and Bulk Regulations set forth by the provisions of the underlying district.

3. Low Intensity Slope Supplemental Regulations

Uses, structures, buildings and lots within the Low Intensity Slope District shall adhere to the following supplemental regulations which, if applicable, shall override the regulations of the underlying district;

- a. Pre-development slope shall be identified on the Plan as well as grades resulting from the development.
- b. The applicant shall comply with stormwater management regulations set forth in the Borough Subdivision and Land Development Ordinance.
- c. A Conservation Plan prepared in accordance with the Subdivision and Land Development Ordinance.
- d. Total impervious coverage shall not exceed ten (10) percent of the total lot area.
- e. During development, disturbance on any given individual structure site shall be no greater than thirty (30) percent of the area within the Low Intensity Slope District.
- f. The slope of driveways for individual uses shall not exceed fifteen (15) percent.
- g. Street design shall comply with the Borough Subdivision and Land Development Ordinance.

E. High Intensity Slope District Use Regulations

1. Uses in the High Intensity Slope District.

a. Uses Permitted By Right:

The following uses, and no other shall be permitted in the area deemed to be the High Intensity Slope District of Borough;

- (1) Forestry;
- (2) Recreational uses, excluding structures;
- (3) Conservation uses; and
- (4) No more than fifty (50) percent of the required yard area for permitted uses.

b. Uses Permitted by Special Exception.

The following uses, and no other shall be permitted by right within the area deemed to be the High Intensity Slope District of the Borough:

- (1) Single-family detached dwelling.

2. High Intensity Slope Supplemental Regulations

Uses, structures, buildings and lots within the High Intensity Slope District shall adhere to the following supplemental regulations which, if applicable, shall override the regulations of the underlying district:

- a. Pre-development as well as resulting grades shall be identified on the Plan submitted;
- b. The Plan shall identify the slope of proposed driveways and access roads and must demonstrate the ability for access by emergency vehicles;
- c. The applicant shall comply with stormwater management regulations set forth in the Borough Subdivision and Land Development Ordinance;
- d. A Conservation Plan prepared in accordance with the Subdivision and Land Development Ordinance.
- e. On any given individual structure site, disturbance shall be not exceed fifteen (15) percent of the area within the High Intensity Slope District;
- f. In no instance shall total impervious coverage in the High Intensity Slope District exceed five (5) percent on any given lot;
- g. Where a building foundation is proposed in the High Intensity Slope District, engineered drawings prepared by a qualified structural engineer shall be submitted at the time the application and all other plans are submitted;

- h. Individual driveways for structures located in the High Intensity Slope District shall comply with the following regulations:
 - (1) Driveways shall not exceed a grade of fifteen (15) percent.
 - (2) It shall be shown that the soil from any resulting change in grade has been fully stabilized; and
 - (3) Cut and fill necessary to provide access shall be kept to a minimum and shall be included in site disturbance calculations.
- i. Street design shall comply with the Borough Subdivision and Land Development Ordinance.

Section 10.6. Woodland Overlay District.

A. Statement of Intent

It is the intent of this section to fulfill the goals and resource recommendations of the Borough Comprehensive Plan and Open Space, Recreation, and Environmental Resource Plan by minimizing the disturbance to wooded areas to:

- 1. Allow wooded areas to maintain stormwater absorption levels;
- 2. Stabilize and protect soils against erosion;
- 3. Preserve wildlife habitats within the Borough; and
- 4. Use wooded areas as natural screening and buffer zones.

B. District Delineation

The Woodland District shall be determined as all areas within the Borough where a more or less dense and extensive cover of trees, particularly well stocked groupings of trees with other vegetation, covers a contiguous land area of one half (1/2) acre or more, having more than one (1) viable tree of a caliper six (6) inches or greater measured 4.5 feet from the ground, occurring at a density of at least one per one thousand (1,000) square feet.

C. Compliance

No structure or land shall hereafter be used and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this Ordinance and any other applicable Ordinances and regulations which apply to uses within the jurisdiction of this Ordinance.

D. Use Regulations

1. Uses Permitted By Right:

Uses shall be the same as those permitted by right in the underlying zoning district when in compliance with the regulations set forth in Section 10.6.E.

2. Uses Permitted by Special Exception:

The uses permitted by special exception shall be the same as those permitted by special exception in the underlying zoning district when in compliance with the regulations set forth in section 10.6.E.

E. Design Regulations

Woodland areas shall be preserved to the greatest extent possible and where uses, buildings, or structures are proposed within the identified Woodland Overlay District, the following regulations shall apply:

1. On any given site or portion of a site that is within the Woodland Protection District, no more than twenty-five (25) percent of the woodlands may be disturbed.
2. Where a new structure, building or use is proposed the applicant shall prepare a woodlot management plan which shall identify the following:
 - a. The location and type of trees within the proposed development plan with a caliper of six (6) inches or greater;
 - b. All trees with a caliper of six (6) inches or greater that will be removed before, during, or after the development process;
 - c. The location and type of vegetation that will be added to the site; and
 - d. The limits of earth disturbance.
3. For each tree with a caliper of six (6) inches or more that is removed, a new tree with a caliper of at least four (4) inches shall be added to the site.
4. New vegetative cover added to the site, including trees, should be compatible to the existing varieties and be of native and non-invasive species.
5. The clear cutting of trees shall be prohibited.
6. Selective cutting, for the purposes of maintenance and safety shall be permitted.
7. Where the proposed use is commercial or industrial, the plan shall use, to the greatest extent possible, the existing woodlot as screening and/or buffering when required.
8. Farms, as defined by this Ordinance are exempt from the regulations of this section except in the following circumstances:
 - a. Farms containing woodlots within the Floodplain Conservation District shall comply with the regulations set forth in this Section;
 - b. Farms containing woodlots within any High Intensity Steep Slope Area shall comply with the regulations set forth in this Section; and
 - c. Farms containing woodlots within twenty (20) feet of the property line of existing residential uses or within twenty (20) feet of a residential zoning district shall comply with the regulations set forth in this Section.

PART 11
Design Standards

Section 11.1. Purpose.

This Part of the Borough Zoning Ordinance provides standards to protect the safety, mobility, and visual integrity of the Borough which may otherwise be compromised through the development of uses permitted by this Ordinance.

Section 11.2. Vegetative Screening and Landscaping.

A. The following standards have been established to:

1. Reduce possible impacts of light, sound, and visual intrusions.
2. Provide a transition between uses which are potentially incompatible.

B. Vegetative Screening and Landscaping shall be required for one or more of the following situations:

1. Where a proposed commercial use abuts an existing residential district or use.
2. Where a proposed industrial use abuts an existing residential district or use.
3. Where outdoor storage of materials or equipment is proposed.
4. Where parking lots are proposed or are proposed to be expanded.
5. Where other sections of this Ordinance specify that screening is required.

C. Design Criteria.

Vegetative Screening shall be provided in accordance with the following provisions:

1. Screening shall use native and non-invasive species of plants unless otherwise authorized by the Borough.
2. To provide a year round screen, the design shall incorporate a variety of deciduous and conifer species.
3. The vegetative screen shall be designed to produce a seventy-five (75) percent opaque buffer within one (1) year of planting.
4. Evergreen species shall represent not less than fifty (50) percent but not more than seventy-five (75) percent of the total plantings within the vegetative screen.
5. The layout of plants shall be designed as groupings intended to represent a naturalistic setting rather than in the form of continuous linear plantings.
6. The design of vegetative screens shall be reviewed and approved by the Borough prior to installation.

D. Responsibility and Maintenance.

1. Vegetative screens and buffers shall be continually maintained by the property owner.
2. All non-surviving plantings shall be replaced within six (6) months, as long as the building, structure or use which requires the screening shall continue to exist.

Section 11.3. Lighting.

The provisions of this section are intended to provide lighting that will assist in creating safe pedestrian areas especially where pedestrian and automobile traffic intermix or where additional safety conditions arise.

- A. To assist in providing safe conditions, artificial lighting shall be incorporated into the design of the following uses at the following levels:

<u>USE</u>	<u>MAINTAINED FOOTCANDLES</u>	<u>UNIFORMITY RATIO</u>
Pedestrian Facilities		
Residential	0.2 minimum	4:1
Commercial	0.6 minimum	3:1
Parking Facilities		
Residential	0.5 average	4:1
Commercial	1.0 average	3:1
Industrial	0.5 average	4:1
Walkways/Bikeways	0.5 average	5:1
Building Entrances	5.0 average	3:1
Storage Areas		
Active (commercial operation)	20.0 average	4:1
Inactive	1.0 average	6:1
Loading and Unloading Areas		
Automated Teller Machines	5.0 average	3:1

- B. Borough Council may require lighting facilities to be incorporated into uses that do not otherwise fall within the categories established under Section 11.3.A., but have the potential to create unsafe conditions.
- C. All lighting fixtures shall use underground wiring.
- D. No light shall be permitted which shines directly into a residential dwelling unit.
- E. Any glare produced by artificial lighting shall be shielded so as to not create a nuisance or safety concern to pedestrians, drivers, or neighboring property owners.
- F. Lighting fixtures shall be continually maintained as to be in continual compliance with the provisions of this Ordinance.

G. When a change of use occurs on a property, the new use shall comply with the regulations of this Section.

Section 11.4. Loading and Unloading areas.

Off-street loading and unloading spaces, with proper access from a street or alley, shall be provided on any lot on which a building for trade, business, or industry is hereafter erected or substantially altered according to the following:

- A. Parking spaces, interior streets, alleys, or roads shall neither count towards required loading and unloading areas nor be used as loading and unloading areas.
- B. For the purposes of this Ordinance, one (1) loading and unloading space shall be a minimum of sixteen (16) feet by seventy-five (75) feet.
- C. Structures with twenty thousand (20,000) square feet of leasable floor area or less shall be required to have no less than one (1) loading and unloading space.
- D. Structures with total leasable floor area in excess of twenty thousand (20,000) square feet shall be required to have a minimum of two (2) loading and unloading spaces.

Section 11.5. Outdoor Displays.

Outdoor display of products, goods, or services shall adhere to the following:

- A. The outdoor display of products or goods shall only be allowed when expressly permitted by the regulations of the underlying zoning district provided said products or goods are placed indoors during non-working hours.
- B. Signs advertising services, products or goods shall be in conformance with the provisions of Part 13 of this Ordinance.
- C. No outdoor display of products or goods shall be permitted within any right-of-way area or within any required parking or sidewalk area that would interfere with pedestrian or automobile circulation.

Section 11.6. Outdoor Storage.

Outdoor storage areas associated with commercial or industrial uses shall be governed by the following regulations:

- A. Areas for the outdoor storage of material and equipment shall be screened from adjacent uses according to the provisions of Section 11.2. of this Ordinance.
- B. Storage of material and equipment shall not be permitted within any Flood Hazard Overlay District as identified by this Ordinance.
- C. Storage areas shall not be permitted within any front yard area.
- D. All areas for storage of materials or equipment shall be setback from all property lines a minimum of ten (10) feet unless adjacent to a residential use or residential district in which case the minimum setback shall be fifteen (15) feet.

Section 11.7. Off-street Parking.

Parking shall be provided for all uses according to the following:

- A. No less than two (2) off-street parking spaces, shall be provided on any lot that contains a building or structure. The following types of uses shall provide additional off-street parking space(s) as indicated:
 1. Multi-family dwelling: Two (2) spaces for each unit.
 2. Hotel: One space for each room.
 3. Tourist House: One (1) space for each rental room.
 4. Restaurant, cafe, tavern or tea room: One (1) space for each fifty (50) square feet of floor space, devoted to patron use.
 5. Theater, auditorium, or other place of public assemblage, except churches: one (1) parking space shall be required for every four (4) seats.
 6. Churches: one (1) space shall be required for every six (6) seats in the sanctuary or main assembly room.
 7. Barber shop, beauty salon, or similar establishment: one (1) parking space for each twenty-five (25) feet of floor space.
 7. Recreational establishments:
 - a. Miniature golf courses: one (1) space for each hole.
 - b. Bowling alleys: three (3) spaces for every one (1) lane.
 - c. Outdoor recreation facilities: one (1) space for every 1,500 square feet of area.
 - d. Other recreational facilities not listed: one (1) space shall be required for every 150 square feet of gross floor area.
 8. Commercial buildings, other than those specified above, shall be required to have a minimum of four (4) parking spaces when the use has one thousand (1,000) square feet or less. One (1) additional space shall be required for each three hundred (300) square feet, or portion thereof, of floor area in excess of one thousand (1,000) square feet.
 9. Industrial establishment: One (1) space for each two (2) employees.
- B. All off-street parking spaces shall have proper access from a street or alley.
- C. Off-street parking facilities existing at the effective date of this Ordinance shall not subsequently be reduced to an amount less than required under this Ordinance for a similar new building or new use. Off-street parking facilities provided to comply with the provisions of this Ordinance shall not subsequently be reduced below the requirements of this Ordinance.
- D. In the case of a change in use, the requirements pertaining to the new use shall be applied if they are greater than the requirements for the old use.

- E. All parking shall be located on the same lot for which the use is located, but may be permitted on an alternate lot, not attached to the proposed site, according to the following:
1. Sufficient land area is not available on the lot.
 2. The required number of parking spaces according to Section 11.7.A. are provided on the alternate lot.
 3. The alternate lot is within five hundred (500) feet of the proposed use.
 4. Sufficient pedestrian facilities are available that connect the alternate parking area to the proposed use.
 5. The alternate lot is not on the other side of an arterial or collector road from the proposed use.
 6. The alternate lot is under the same ownership as the lot containing the proposed use, or the alternate lot is owned by a separate party provided a witnessed and notarized written agreement is made between the owner of the proposed use and the owner of the alternate parking area and said agreement is satisfactory to the Planning Commission.
- F. It is the intent of this Section to encourage joint or shared off-street parking facilities for two (2) or more adjacent buildings or uses. The total of such off-street parking facilities provided collectively, shall not be less than the sum of the requirements for the various individual uses computed separately.
- G. Any parking lot with ten (10) or more spaces shall be designed in accordance with the following:
1. Parking areas shall be setback from the street right-of-way line by a planting strip with a minimum depth of three (3) feet.
 2. When adjacent to residential uses, parking lots shall be screened in accordance with the provisions of Section 11.2.
 3. Planting strips within parking areas, in addition to those required for screening and right-of-way separation, shall be required according to the following:
 - a. Planting strips shall be required to perform one or more of the following functions:
 1. Separate parking areas from interior automobile and pedestrian travel lanes;
 2. Increase the visual integrity of parking areas; and
 3. Provide shade for parked cars.
 - b. A planting strip with a minimum area of twenty (25) square feet shall be incorporated into the design for parking lots with twenty (20) spaces and an additional planting shall be incorporated for each additional ten (10) spaces.
 4. Responsibility and maintenance of parking lot screening shall be governed by Section 11.2.D. of this Ordinance.
 5. Parking lots shall be designed and maintain so that there is no increase in the rate of stormwater run off from the site.

Section 11.8. Vehicular Access.

A. Roadway access shall be regulated in order to:

1. Encourage the sound development of street and highway frontage;
2. Protect public safety particularly in areas where pedestrian and automobile movements interact; and
3. Coordinate the number and location of entrance and exit ways along roads and promote shared access facilities.

B. Applicability

The standards of this section and the standards within the Subdivision and Land Development Ordinance street standards shall apply to all uses which propose to create one (1) or more vehicular accessway(s) to a public street.

C. Access Provisions

1. Access to all buildings, lots or parking area shall be provided from a local road as identified in the Comprehensive Plan, and shall not directly access any Arterial Road as identified in the Comprehensive Plan unless no alternative is available.
2. Where possible, common accessways shall be provided to reduce the number and proximity of access points along the street or highway.
3. The number of roadway access points to an individual use or building, or group of buildings constructed as part of an integrated plan, shall be limited to one (1) when the lot width at the street line is equal to or less than fifty (50) feet.
4. When the lot width at the street line exceeds fifty (50) feet, for an individual use or building, or group of uses or buildings constructed as part of an integrated plan, a maximum of two (2) accessways shall be permitted.
5. Any lot or area which is used for the parking and movement of motor vehicles shall be physically separated from the street by a curb and a three (3) foot wide planting strip to guard against unchanneled motor vehicle entrance or exit, except at the location of authorized accessways.

D. Sight Distance.

At any street intersection or the intersection of any accessway with a street no wall, fence or other structure shall be erected or altered, and no hedge, tree, shrub or other growth shall be planted or maintained, which may cause danger to traffic on a street or public road by obscuring the view. Intersections and accessways to any street shall meet the sight distance and streets requirements of the Subdivision and Land Development Ordinance.

Section 11.9. Performance Standards

A building may be erected or used, and a lot may be used or occupied for any lawful purpose provided they comply with the following standards:

- A. Emit no obnoxious, toxic or corrosive fumes or gases.

- B. Emit no odors perceptible at the lot boundaries.
- C. Emit no smoke from primary activities of sufficient density to obscure sunlight.
- D. Discharge into the air no dust or other particulate matter created.
- E. Produce no heat or glare perceptible at or beyond the lot boundaries.
- F. Utilize lighting in a manner which produces no glare in public streets or on any other parcel.
- G. Produce no physical vibration perceptible at or beyond the lot boundaries.
- H. Produce no electromagnetic radiation or radioactive emission injurious to human beings, animals or vegetation. Electromagnetic radiation or radioactive emissions shall not be of any intensity that interferes with the use of any other property.
- I. Do not engage in the reproduction or storage of any material designed for use as an explosive, or in any way create any other danger to the safety of the surrounding area.
- J. Discharge no untreated potentially dangerous or polluting effluent.
- K. Do not engage in the open storage of waste material which might cause fumes or which constitute a fire hazard or which may be edible or otherwise be attractive to rodents or insects; the same shall be stored outdoors only in closed containers and the storage upon the lot may not exceed any period beyond fifteen (15) days.
- L. Do not cause or permit materials or wastes to be deposited upon a lot in such a manner that they may be transferred or scattered off the lot by natural causes or forces.

Section 11.10 Noise Standards

A building may be erected or used, and a lot may be used or occupied for any lawful purpose provided that any source of noise from said use or lot does not unnecessarily disturb, annoy, or cause injury to the citizens of Avondale Borough, and all noises generated from a building or lot shall meet the following standards:

- A. Inspection.
 - 1. The Zoning Officer or other duly appointed official may monitor from outside of the property line any property or place for purposes of testing for violations of these noise standards or to locate the source of any noise source.
 - 2. All tests shall be conducted using a sound level meter which is accepted by professionals in trades that uses such equipment as average quality and sensitivity. Test equipment methods and procedures shall conform to the standards as published by the American National Sound Institute (ANSI, Standard Specification for Sound Level Meters, S1.4-1971 and ANSI S1.13-1971 "Standard Methods for the Measurement of Sound Pressure Levels") with its latest revisions.

B. Sound Standard.

All sound sources shall comply with the sound standard for the district in which it is located. All sound measurements shall be taken at the property line of the property, use, or lot being tested.

dBA Rating Limit

<u>Zoning District</u>	<u>from 8:00 am to 10:00 pm (dBA)</u>	<u>from 10:00 pm to 8:00 am (everyday), all day Sunday, and all day on Holidays (dBA)</u>
R-1, R-2, and FD	60	50
TC and DC	65	55
I	75	60

C. Specific Prohibitions.

The following acts and the cause thereof are declared violations of this Ordinance:

1. Operating, playing, or permitting the operation or playing of any radio, television, phonograph, sound amplifier, musical instrument, or other such device between the hours of 10:00pm and 8:00am in such a manner to create a noise disturbance across a real property line.
2. Owning, possessing, or harboring any animal which frequently for any continued duration howls, barks, or makes any other sound so as to create a noise disturbance across a real property line.
3. Performing any construction operation or operating or permitting the operation of any tools or equipment used in construction, drilling, or demolition work between the hours of 10:00pm and 8:00am if such operation creates a noise disturbance across a real property line.
4. Repairing, rebuilding, modifying, testing, or operating any motor vehicle, motorcycle, recreational vehicle, snowmobile, or powered model vehicle in such a manner as to cause a noise disturbance across a real property line.
5. Operation or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn, or garden tool, or similar device that is used outdoors between the hours of 10:00pm and 8:00am so as to cause a noise disturbance across any non-industrial real property line.

D. Exceptions.

This ordinance shall except the following from compliance to the Noise Standards of this ordinance:

1. The emission of sound for the purposes of alerting persons to the existence of an emergency.
2. Work to provide electricity, water, or other public utilities when public health or safety are involved.
3. Normal residential activities, including normal maintenance and lawn care provided such activities occur between 8:00am and 10:00pm.
4. Motor vehicle operation on public streets (This is regulated by the Pennsylvania Department of Transportation, Title 67, Chapter 450 governing established sound levels effective August 27, 1977, or its latest revisions).
5. Public celebrations specifically authorized by the Borough.

PART 12
Supplemental Use Standards

Section 12.1. Purpose.

It is the intent of this Part to provide supplemental regulations that increase the compatibility of uses, in addition to the regulations under the applicable zoning district.

Section 12.2. Accessory Apartments.

Where permitted by this Ordinance, accessory apartments shall comply with the following regulations:

- A. The total livable floor area of a proposed accessory apartment shall be no less than three hundred (300) square feet, but shall not exceed twenty five (25) percent of the total livable floor area of the original structure.
- B. Parking shall be provided in accordance with Section 11.7 of this Ordinance.
- C. An accessory apartment shall be permitted provided the original structure contains a minimum of two thousand (2,000) square feet of livable floor area.
- D. Newly created entrances associated with the creation of an accessory apartment shall be limited to the side or rear yard.

Section 12.3. Adult Care Facilities.

Proposed Adult Care Facilities shall comply with the following regulations:

- A. Minimum lot size shall be determined by the following:
 1. In no case shall the minimum lot size be less than required by the regulations of the district in which the use is located.
 2. For facilities permitting long-term or overnight stays, a minimum lot size of three thousand (3,000) square feet shall be required for every three (3) beds or part thereof, but in no case shall the minimum lot size be less than that of the underlying zoning district.
 3. Where only daily activities occur, and no long-term or overnight stays are involved the minimum lot size shall be equivalent to that required by the underlying zoning district provided:
 - a. A minimum of one hundred (100) square feet of indoor recreation area is provided for each adult at the proposed facility, but in no case shall the amount of indoor recreation area be less than one thousand (1000) square feet;
 - b. All Area and Bulk standards of the underlying district are complied with.
- B. Screening shall be required around the perimeter of the proposed Adult Care Facility in accordance with Section 11.2.

C. Parking shall be provided in accordance with the following:

1. One (1) parking space shall be required for each employee.
2. One (1) parking space shall be required for every three (3) beds at the facility.
3. One (1) parking space shall be required for every two hundred and fifty feet (250) of indoor recreation area.

Section 12.4. Bed and Breakfast.

This Section is intended to provide regulations that will limit potential impacts that a proposed bed and breakfast operation may cause on adjacent uses.

- A. Bed and Breakfast operations shall only be permitted as an accessory use to a single-family detached dwelling.
- B. The livable floor area of the original structure shall be at least two thousand (2000) square feet.
- C. The operator of the facility shall live on the premises or on adjacent premises.
- D. The maximum number of rentable bedrooms shall be three (3).
- E. Signs for the use shall be permitted in accordance with Part 13 of this Ordinance.
- F. In addition to the required parking for the principal residential dwelling, one (1) off street parking space shall be required for each rentable bedroom unit and shall be screened from adjacent residential uses according to the provisions of Section 11.2.
- G. Dining facilities shall be permitted within the Bed and Breakfast provided that such services are only provided to overnight guests.
- H. A Bed and Breakfast facility shall not employ more than two (2) full-time non-residents of the bed and breakfast.
- I. The facade of the building shall remain consistent with that of a single-family dwelling.

Section 12.5 Communication Towers.

Where permitted by the zoning regulations of this ordinance, Communication Towers shall show compliance with the following regulations:

- A. Prior to granting approval, the applicant shall identify all other communication towers within a one quarter (1/4) mile radius of the proposed tower and, if other towers exist, the applicant shall demonstrate, to the satisfaction of Council, why the use of said tower(s) is not a viable alternative.
- B. A tower, associated building, and equipment shall be considered a principal use and shall be required to meet all area and bulk regulations as determined by the underlying district unless more restrictive regulations are required by this section.

- C. Front, rear, and side yard setbacks for a proposed tower, building and equipment shall be no less than the height of said facilities, but in no case shall any setback be less than that required by the underlying zoning district.
- D. Vegetative screening, according to Section 11.2 shall be required around all fencing and ground level equipment to screen the facilities from public view.
- E. All towers over thirty-five (35) feet in height must meet all applicable standards of the American National Standards Institute, Electrical Industry Association, and Telecommunication Industry Association including, but not limited to, standards for sustained one hundred (100) mile per hour winds and ice loading requirements for the region in which the tower is intended to be located.
- F. All communication towers shall conform to all applicable federal and state regulations including, but not limited to those of the Federal Communication Commission and the Federal Aviation Administration.
- G. The tower owner is required to notify the Borough upon cessation or abandonment of use at which time the owner has ninety (90) days to dismantle and remove the tower.
- H. All towers shall be properly maintained to ensure safe and structurally sound conditions.
- I. Towers shall not be permitted to support or display any type of sign or artificial lighting unless required by the Federal Aviation Administration.

Section 12.6. Conversion of Structures.

The following regulations shall apply to all proposed conversions of dwellings within the Borough.

- A. Prior to approval from the Borough for the conversion of a dwelling unit, the original lot and structure must be in full compliance with the provisions of this Ordinance.
- B. Subsequent residential units shall have no less than eight hundred (800) square feet of livable floor area.
- C. A minimum of two (2) parking spaces shall be required for each dwelling unit.

Section 12.7. Day Care Center.

The following regulations shall apply to all proposed day care centers in the Borough:

- A. Prior to Borough approval, the operator of any proposed day care center shall be licensed by the Pennsylvania Department of Public Welfare.
- B. A required outdoor play area shall be provided according to the following:
 - 1. A minimum of one hundred (100) square feet of outdoor play area shall be required for each child at the center, but in no case shall the minimum outdoor play area be less than one thousand (1000) square feet.
 - 2. The outdoor play area shall be located in the side or rear yard.
 - 3. Impervious surface shall be permitted as part of the outdoor play area but no more than five hundred (500) square feet of impervious shall count towards the required area.

4. Fencing shall surround the outdoor play area and shall be a minimum height of four (4) feet.
 5. Any unsafe areas such as drainage ditches, wells, or holes shall be fenced to prevent harm to children.
 6. Outdoor play areas shall be setback from all property lines a minimum of five (5) feet.
 7. Screening, according to Section 11.2, shall be required around outdoor play areas and shall be placed in the required setback area.
 8. The outdoor play area shall be provided on the same site as the principal structure.
- C. A minimum of sixty (60) square feet of indoor play area shall be required for each child at the proposed Day Care Center, but in no case shall the area of indoor play area be less than nine hundred (900) square feet.
- D. Off-street parking facilities shall be required according to the following:
1. All parking facilities shall be in full compliance with Section 11.7 of this Ordinance.
 2. One (1) parking space shall be provided for each employee, plus one (1) parking space shall be provided for every four (4) children, but in no case shall there be less than six (6) parking spaces.
 3. The parking areas shall be designed in such a manner as to provide a safe transfer of children to and from the center.
- E. A sign shall be permitted in accordance with Part 13 of this Ordinance.

Section 12.8 Drive-thru Facility.

Where permitted by the regulations of the underlying zoning district, a drive-thru facility shall comply with the following:

- A. The cartway for the drive-thru facility shall include a dedicated area for conducting business, an area for stacking of automobiles waiting to conduct business, and an area for departing automobiles.
- B. The width of the cartway for a drive-thru facility shall be no less than ten (10) feet.
- C. The area for conducting business shall be no less than twenty two (22) feet long.
- D. The area of departure shall be no less than twenty two (22) feet long.
- E. The stacking area shall be provided in accordance with the following:
 1. The stacking lane shall be clearly marked to separate it from other traffic.
 2. Each stacking space shall be no less than ten (10) feet wide and twenty-two (22) feet long.
 3. Stacking lanes for drive-thru restaurants shall comply with the following:
 - a. Where the location for placing an order is separate from the receiving location, there shall be a minimum of four (4) stacking spaces provided prior to the ordering location and no less than

three (3) additional stacking spaces provided between the ordering location and the receiving location.

- b. Where the location for placing an order is the same as the receiving location, there shall be a minimum of ten (10) stacking spaces.
- 4. Stacking lanes for drive-thru bank teller windows and ATM facilities shall have no less than five (5) stacking spaces prior to the window or ATM.
- F. Pedestrian crosswalks that cross the drive-thru cartway shall be clearly marked and lighting shall be provided in accordance with Section 11.3.
- G. No drive-thru facility shall be used as a part of a home occupation.

Section 12.9 Elderly Housing.

The following regulations shall apply to all elderly housing:

- A. Single-family attached dwellings (townhouse) developed as elderly housing shall comply with the area and bulk regulations contained in 6.3.C.
- B. Multi-family dwellings developed as elderly housing shall comply with the area and bulk regulations contained in Section 6.3.B.
- C. Elderly housing intended for 80% occupancy by households consisting of at least one person 55 years of age or older, shall include facilities or provide services which specifically address the unique needs of this population unless it is determined that the provision of such facilities or services is not practicable, that such housing is necessary to provide important housing opportunities for older persons.

A description of the facilities or services proposed, and the methods proposed to secure continuation of such facilities or services, shall be included in the land development application and the special exception application, as required. The design of services or facilities proposed in conjunction with the elderly housing shall comply with all applicable regulations. If regulations are not specified for the services or facilities proposed, or if additional conditions are required, the Zoning Hearing Board, through review of the special exception application, may impose such conditions as necessary to assure that the intent of the Zoning Ordinance is met.

- D. Whenever a side or rear yard of an elderly housing structure or structures is contained within or abuts an R-1 or R-2 District, or an existing single or two family dwelling, vegetative screening in accordance with Section 11.2, shall be placed within the applicable yards. Additional vegetative screening may be required depending on the specific site plan in order to reduce the visual impact of the structure or structures on adjacent residential dwellings.
- E. Required parking shall adhere to the following:
 - 1. A minimum of one and a half (1.5) parking spaces shall be required for each single-family residence if the housing is designed for 100% occupancy by those 62 years of age or older.
 - 2. A minimum of two (2) parking spaces shall be required for each single-family residence if the housing is designed for 80% occupancy by households that consist of at least one person 55 years of age or older.

3. Additional parking spaces shall be required to meet any parking needs generated by supplemental services or facilities proposed in accordance with Section 11.7, Off-street Parking.
 4. Parking areas shall be screened according to the provision of Section 11.2 Vegetative Screening and Landscaping.
 5. Parking areas shall be setback from all property lines and all structures a minimum of 25 feet.
- F. Sidewalks shall connect dwellings with parking areas, recreational facilities and sidewalks of adjacent properties.
- G. Exterior lighting shall comply with the provision of Section 11.3, Lighting.
- H. Open space/recreational requirements shall be reserved according to the following:
1. A minimum of twenty-five (25) percent of the total original tract area shall be reserved as open space which may be used for recreational purposes.
 2. A maximum of fifty (50) percent of the total required open space area may include floodplain, wetland and areas with slope in excess of twenty-five (25) percent.
 3. The length of any multi-family structure shall not exceed 160 feet in any direction.

Section 12.10. Family Day Care Home.

The following regulations shall apply to any proposed family day care home:

- A. Prior to obtaining Borough approval, the operator of the family day care home shall be registered with the Pennsylvania Department of Public Welfare to operate such a use.
- B. A minimum of sixty (60) square feet of indoor play shall be required for each child, but in no case shall exceed twenty-five (25) percent of the total floor area of the home in which the operation is located.
- C. An outdoor play area shall be required according to the following:
1. A minimum of one hundred (100) square feet shall be required per child.
 2. Fencing with a minimum height of four (4) feet shall fully surround the required outdoor play area.
 3. Not more than fifty (50) percent of the required outdoor play area shall be made of impervious cover.
 4. The outdoor play area shall be located in the side or rear yard of the home in which the use is to be located.
 5. Any unsafe areas such as drainage ditches, wells, or holes shall be fenced to prevent harm to children.
 6. The use of outdoor play areas shall be limited to the hours between 7 a.m. and 6 p.m.
- D. A family day care home shall be considered a home occupation and shall be further regulated according to the provisions established in Section 12.11 of this Ordinance.

Section 12.11. Home Occupations.

The following regulations shall apply to all home occupations:

- A. Home occupations shall be permitted provided all activities remain indoors, with the exception of family day care homes.
- B. The storage of goods or materials shall not be permitted outside. This shall include the display of goods or merchandise.
- C. The floor area containing the home occupation shall not exceed twenty five (25) percent of the total livable floor area of the dwelling or one thousand (1000) square feet whichever is less.
- D. A home occupation shall not employ more than two (2) people that do not reside in the principal residential unit.
- E. Sales of food on the premises of a home occupation shall prohibited.
- F. A home occupation shall only be permitted in a single-family detached dwelling or a single-family semi-attached (twin) dwelling.
- G. A sign advertising the home occupation shall be permitted provided it is in full compliance with Part 13 of this Ordinance.
- H. Parking shall be required according to Section 11.7 of this Ordinance.

Section 12.12. Junk Yard.

Where permitted by this Ordinance, proposed junk yards shall comply with the regulations of this Section prior to gaining approval by Borough Council.

- A. All proposed junk yards shall contain a minimum of ten (10) contiguous acres, not separated by other parcels, public roads, or floodplain areas.
- B. Junk yards shall be entirely surrounded by a fence with a minimum height of six (6) feet, except at the entrance location which shall require a gate with a minimum height of six (6) feet.
- C. The required fencing shall be setback from all property lines a minimum of ten (10) feet unless adjacent to a residential use or district in which case the required fencing shall be setback a minimum of twenty (20) feet.
- D. Vegetative screening shall be required along the entire exterior of the fence according to the provisions of Section 11.2 of this Ordinance.
- E. Access shall be provided directly from an arterial or collector road as defined in the Borough Comprehensive Plan.
- F. Materials stored within a junk yard shall not be stacked so they are visible from outside of the use and in no instance shall materials be stacked higher than six (6) feet.
- G. Truck traffic in and out of a junk yard shall only occur between 7:00 a.m. and 7:00 p.m.

- H. The storage of flammable or toxic materials shall not be permitted on the junk yard site unless such storage areas meet the applicable federal, state and local standards and codes.
- I. A stormwater management plan shall be prepared in accordance with the Subdivision and Land Development Ordinance.
- J. Material shall be stored in such a manner so that all areas of the site are accessible for fire fighting and emergency management vehicles.

Section 12.13. Manufactured Homes.

Where permitted by this Ordinance, manufactured homes shall be required to comply with the following standards:

- A. The Borough Subdivision and Land Development Ordinance.
- B. Manufactured homes shall be considered a single-family detached dwelling under the provisions of this Ordinance and shall adhere to the area and bulk regulations of the underlying district.
- C. Manufactured homes shall be provided with water, sewer and electric connections.
- D. Manufactured homes shall have a minimum of two (2) off-street parking places.
- E. All utilities shall be underground.

Section 12.14. Manufactured Home Parks.

Prior to granting approval by Borough Council, a proposed Manufactured Home Park shall show compliance with the following regulations:

- A. Additional provisions listed in Part 5 of the Subdivision and Land Development Chapter of the Borough Code shall also apply.
- B. No manufactured home within a manufactured home park shall be serviced directly by public roads. All shall have primary access to an interior street or drive.
- C. In addition to the parking standards in Section 11.7 of this Ordinance, one (1) additional off-street parking space shall be provided in a common parking facility for each manufactured home within the park.
- D. Screening along the perimeter of the tract shall be required as set forth within Section 11.2 of this Ordinance.

Section 12.15. Mixed Use.

In addition to complying with the regulations established by the zoning district in which the use is located, any proposed mixed use shall comply with the following regulations:

- A. Required parking for the mixed use shall be determined by totalling the required parking for each individual use.
- B. Parking areas shall be screened from adjacent residential uses or districts in accordance with Section 11.2.

Section 12.16. Multi-family Dwelling.

Where permitted by this Ordinance, proposed multi-family residences shall show compliance with the regulations of this section prior to approval by Borough Council.

- A. Whenever a side or rear yard of a multi-family structure adjoins an R-1 or R-2 District, or an existing single or two family dwelling, vegetative screening according to Section 11.2 shall be placed within the side and/or rear yard.
- B. Required parking shall adhere to the following:
 - 1. A minimum of two (2) parking spaces shall be required for each single-family residence.
 - 2. Parking areas shall be screened according to the provisions of Section 11.2 of this Ordinance.
 - 3. Parking areas shall be setback from all property lines and all structures, including the proposed multifamily structure a minimum of twenty five (25) feet.
- C. Sidewalks shall connect dwellings with parking areas, recreational facilities and sidewalks of adjacent properties.
- D. Open space/recreational area requirements shall be reserved according to the following:
 - 1. A minimum of twenty-five (25) percent of the total original tract area shall be reserved as open space which may be used for recreational purposes.
 - 2. A maximum of fifty (50) percent of the total required open space area may include floodplain, wetland and areas with slope in excess of twenty-five (25).
- E. The length of a multi-family structure shall not exceed 160 feet in any direction.

Section 12.17. Private Garage.

A private garage, which is not an integral structural part of a main building, shall only be erected in the rear, and/or side yards, provided:

- A. It is situated no less than three (3) feet from any property line, except that a common or joint garage which is not an integral structural part of a main building may be erected on adjoining lots.
- B. The construction of the garage does not exceed the permitted building or lot coverage regulations of the district for which the use is located.

Section 12.18. Quarrying and Mining Operations.

When permitted by the regulations of this Ordinance, a quarrying or mining operation shall show full compliance with all regulations of this Ordinance including the following:

- A. All quarrying and mining operations shall meet the regulation of the Department of Environmental Protection.
- B. No quarrying or mining operation shall be permitted to extract from the Cockeysville Marble Geologic Formation.

- C. The hours of operation shall be between 7:00am and 8:00pm.
- D. The quarry or mine shall be laid out and graded so that runoff shall enter sedimentation traps.
- E. All activities are in conformance with the performance standards, Sections 11.9 and 11.10, of this Ordinance.

Section 12.19. Shopping Center.

When permitted by the regulations of this Ordinance, a shopping center shall show full compliance with all regulations of this Ordinance including the following:

- A. Shopping centers, including parking areas and structures, shall be fully screened from all adjacent residential uses and districts in accordance with Section 11.2 of this Ordinance.
- B. The required number of parking spaces shall be determined by using the total square footage of the shopping center in accordance with Section 11.7.A.8.
- C. Signage for the shopping center shall comply with the following regulations:
 - 1. Signs for individual uses shall comply with the regulations of Article 13.
 - 2. A main sign identifying the location of the Shopping Center shall be permitted in addition to signs for individual uses, but shall not exceed the maximum sign size for the district in which the use is proposed in accordance with Article 13.
 - 3. Lighting for all signs shall comply with the regulations of this Ordinance.

Section 12.20. Trailers.

- A. It shall be unlawful for any person to place, store, park or permit to be placed, stored or parked, any trailer upon any public or private land or property within the limits or boundaries of the Borough of Avondale, except as follows:
 - 1. Trailers, specially designed for use as vacation travel trailers may be placed, stored, or parked on the owner's or occupant's lot, provided the trailer shall not be used at any time during such storage for sleeping or living quarters or for any accessory use in conjunction with the principal use of the lot.
 - 2. Trailers used for offices and/or storage at the site of construction projects may be parked and used as temporary accessory structures. Trailers shall be removed within thirty (30) days of completion of construction of principle use.
 - 3. All types of trailers may be temporarily parked within the Borough for a period not exceeding fifteen (15) days, provided the trailer shall not be used at any time for sleeping and/or living quarters during the parking period.
- B. All trailers authorized to be stored or parked under the provisions of this section, shall continuously bear a current license issued under the provisions of the Pennsylvania Motor Vehicle Code, and shall be so maintained as to be readily capable of being moved along and across public highways in compliance with such Code.

PART 13
Signs

Section 13.1. General Regulations.

The regulations set forth in this Part of the Borough Code shall apply to all signs within the Borough.

A. Permits

1. Permits shall be required for the erection of all signs, except where specifically exempted elsewhere within this Part.
2. All sign permit applications must be signed by the owner of the sign and the owner of the property on which the sign is to be placed before being processed by the Borough.
3. All persons filing for a permit shall be liable for the removal costs of the sign as set forth in Section 13.11 of this Ordinance.
4. All persons filing for a permit shall be subject to the penalties of this Ordinance for any violation of this Part.

B. Construction and Maintenance.

1. Signs shall be constructed of durable materials, maintained in good condition, and not allowed to become dilapidated.
2. Should a sign become dilapidated, the Borough may revoke any outstanding permit and order the removal of the sign.
3. A sign shall be deemed dilapidated if the cost of its repair is equal to or greater than thirty-five (35) percent of the current value of the sign, or if its disrepair becomes detrimental to the health, safety or welfare of the community.

C. Painted Walls.

Advertising that is painted on, or displayed on any structure shall be regarded as an advertising sign and shall be governed by the appropriate regulations.

D. On-Site Requirements.

1. All primary and secondary signs shall be erected on the same lot as the use to which they pertain, except for those exempt signs which are not specifically required to be erected on the same lot.
2. Approval must be obtained by the Zoning Hearing Board for any exemption.
3. Signs erected by a duly constituted governmental body are exempt as are temporary signs which advertise community related events or which are erected by charitable, non-profit, or service organizations, and similar entities, to advertise events sponsored by them.

E. Non-conforming Signs.

All signs that are presently placed at the time of passage of this Ordinance and do not comply with the regulations set forth in this Ordinance shall be governed by the regulations of Section 16.2 of this Ordinance.

F. Architectural Period.

Signs that conform in exterior appearance and are used in the architectural period of the structure with which they are related shall be eligible to apply for the Sign Bonus of Section 13.8 of this Ordinance.

G. Limitation of Business Signs.

1. Each business use or occupancy shall be permitted one (1) primary sign, two (2) secondary signs, one (1) directional sign, and one (1) temporary sign.
2. The total sign area for any single business use or occupancy shall not exceed sixty-four (64) square feet, not including on-site directional signs.

Section 13.2. Permitted Permanent Signs.

The following categories of permanent signs are permitted in the Borough according to the provisions of this Ordinance:

A. P-1, Traffic Signs:

P-1 signs include all signs owned or operated by the State, Borough, or any other duly constituted government.

B. P-2, Public Facility Identification Signs.

P-2 signs are for public and semi-public facilities such as schools, churches, hospitals, libraries, clubs, and public utilities.

C. P-3, Nameplates.

1. P-3 signs indicate the residential occupants of a property.
2. No P-3 sign shall exceed ninety-six (96) square inches in area or twenty (20) inches in any dimension.

D. P-4, Historical Signs.

P-4 signs shall include memorial and historical markers or tablets.

E. P-5, Private Property Signs.

1. P-5 signs shall include signs indicating the private nature of a road, driveway or other premises, and signs controlling the use of private property, such as the prohibition of hunting, fishing, or parking.
2. The total area of one side of a P-5 sign shall not exceed two (2) square feet.

F. P-6, On-Site Directional Signs.

1. P-6 signs indicate the location of facilities on the property on which the sign is located.
2. The total area of one side of a P-6 sign shall not exceed six (6) square feet.

G. P-7, Home Occupation Signs.

1. P-7 signs advertise and identify home occupations and shall only be located in the property where the Home Occupation is engaged.
2. Unless otherwise restricted by this Ordinance, the total area of one side of a P-7 sign shall not exceed two (2) square feet.

H. P-8, On-Site Identification Signs.

1. P-8 signs identify residential subdivisions, commercial developments, office developments, or industrial developments.
2. The total area of one side of a P-8 sign shall not exceed eight (8) square feet.

I. P-9, Off-Site Directory Signs.

1. P-9 signs advertise a group of uses, and their general location.
2. The total area of one side of a P-9 sign shall not exceed ten (10) square feet.

J. P-10, Window Signs.

1. P-10 signs are located in a window of the use or business being advertised.
2. The total area of all permitted P-10 signs shall not exceed twenty-five (25) percent of the total glass area of the window in which it is placed, but shall not exceed fifteen (15) square feet.

K. P-11, Overhead Signs.

1. P-11 signs are mounted flush with and parallel to the exterior wall of the use or business being advertised.
2. P-11 signs shall only be permitted in accordance with the following regulations:
 - a. The bottom edge of an overhead sign, excluding awnings, shall be at least eight (8) feet above the ground, sidewalk, walkway, or pavement and shall not exceed the height of the building or thirty five (35) feet whichever is less.
 - b. Overhead signs extending over the right-of-way of a road, highway, or side street shall not be permitted.
 - c. The total area of an overhead sign shall not exceed ten (10) percent of the total area of the wall on which the sign is located or thirty (30) square feet, whichever is less.

L. P-12, Projecting Signs.

1. P-12 signs are mounted perpendicular to an exterior wall of a use or business being advertised in such a manner that two (2) sides of the sign may be used.
2. P-12 signs shall only be permitted in accordance with the following regulations:
 - a. Projecting signs shall project not more than five (5) feet from the face of a building.
 - b. No part of a sign shall be less than eight (8) nor more than twelve (12) feet above the ground or walkway level.
 - c. Not more than one (1) projecting sign shall be permitted per establishment, per street frontage.
 - d. All projecting signs shall be separated by a minimum of twenty-five (25) feet.
 - e. The total area of one side of a projecting sign shall not exceed fifteen (15) square feet.

M. P-13, Free Standing Signs.

1. P-13 signs are unattached to any building and are raised from the ground normally by means of a pole.
2. P-13 signs where permitted by this Ordinance, shall conform to the following regulations:
 - a. Maximum height from the ground surface measured at sign support or base to the highest point of the sign surface shall be sixteen (16) feet unless increased to the eave height of the closest building to the sign location on the same lot.
 - b. Minimum height as measured from ground surface at sign support or base to lowest point of sign surface shall be two (2) feet.
 - c. One (1) freestanding sign shall be permitted per business per lot per street frontage.
 - d. Unless authorized by special exception, freestanding signs shall be separated by a minimum of twenty (20) feet.
 - e. Freestanding signs shall be located outside of all right-of-way lines and shall be within the property lines of the business the sign represents except where adjacent businesses share the same sign support.
 - e. Where adjacent businesses share the same sign support, the signs shall be eligible for the Sign Bonus of Section 13.8 of this Ordinance.
 - f. The total area of one side of any freestanding sign shall not exceed thirty (30) square feet.

N. P-14, Off-Site Directional Signs.

1. P-14 signs provide directional information for a local use or business that is not on the same property or lot as the sign.
2. The total area of one side of a P-14 sign shall not exceed twenty five (25) square feet.

O. P-15, Roof Signs.

1. P-15 signs are located on the roof of the use or business being advertised.
2. P-15 signs shall only be permitted in accordance with the following regulations:
 - a. The height of a roof sign shall be limited to the height of the peak of the roof.
 - b. A sign on a flat roof, shall not be more than five (5) feet high by ten (10) feet wide.

P. P-16, Billboards.

1. P-16 signs advertise a use, business, or product that is not associated with the property or lot where the sign is located.
2. P-16 signs shall only be permitted in accordance with the following regulations:
 - a. The use of billboards shall only be permitted when allowed by the regulations of the underlying district.
 - b. The maximum size of a billboard shall be one hundred twenty (120) square feet.

Section 13.3. Permitted Temporary Signs.

Only the following types of temporary signs are permitted throughout the Borough, subject to the provisions of this Ordinance:

- A. T-1: Signs identifying architects, engineers, contractors, tradesmen, or others engaged in construction work on the premises wherein their work is proceeding. Such signs shall be removed within one (1) week after the work ceases or is completed. Any T-1 sign which exceeds six (6) square feet in size, prior to its erection, shall require a sign permit to be obtained through the application process as described in this Ordinance.
- B. T-2: Real estate signs on individual properties that are for sale, rent, or lease. All T-2 signs shall be removed within one (1) week of the date of the sale or rental or lease agreement and shall have a maximum size of six (6) square feet.
- C. T-3: Real estate signs similar to those described under T-2, but are located in a residential subdivision and involve the sale or lease of more than one (1) house lot, shall be permitted provided a permit is obtained which shall be valid for one (1) year.
- D. T-4: Signs advertising the temporary sale of products. Such signs shall be removed at the end of the promotion or sale but shall not be displayed for a period of more than thirty (30) days and shall not exceed twelve (12) square feet in size.
- E. T-5: Temporary directional signs for a period not to exceed one (1) week.
- F. T-6: Mobile, portable, or moveable signs, with or without changeable copy, for a period not to exceed thirty (30) days and the size of one side of said sign shall not exceed nine (9) square feet.
- G. T-7: Sidewalk, sandwich, and "A" frame signs. Signs of this type are not to exceed a maximum height of twelve (12) square feet. T-7 signs must be removed at the end of the business day. These

signs, when placed on a sidewalk, shall be located such that they not affect the safety of pedestrians or vehicular traffic and shall encroach no more than fifty (50) percent into the width of the sidewalk.

- H. T-8: Real estate signs similar to T-2 signs, but located in non-residential subdivisions. Such signs announcing proposed commercial or industrial development of the site may be erected for a maximum of one (1) year per permit.
- I. T-9: Over Head Banners. Overhead banners shall be permitted provided the bottom edge is at least twenty (20) feet above the pavement.
- J. T-10: Political Signs. Signs promoting a political candidate or candidates or political view in a forthcoming primary or general election or public referendum. Such signs shall not exceed four (4) square feet per side and shall be removed within one (1) week of the election or referendum.

Section 13.4. Prohibited Signs.

The following signs shall be prohibited:

- A. Signs near the public right-of-way of such a design and location that obviously interferes with, resembles, competes with, or may be mistaken for a traffic signal or traffic sign.
- B. Any sign located in or extending into a public right-of-way, except those owned or operated by a duly constituted government, and those identified as P-1 in Section 13.2 of this Ordinance.
- C. Any sign within an area bound by the intersection of two (2) or more rights-of-way that obviously restricts vehicle operators' line of sight.
- D. Free standing signs over a public sidewalk.
- E. Any sign which prevents free physical egress to or egress from a window, door or fire escape.
- F. Illuminated Signs
 - 1. Illuminated signs in any residential district.
 - 2. Flashing or oscillating signs after sunset.
- G. Animated signs, or signs that emit smoke, vapor or noise.
- H. No sign, including removable political signs and temporary removable yard or garage sale signs, shall be placed on any telephone, electric light, or public utility pole, or upon rocks or other natural feature without the owner's permission.

Section 13.5. Illuminated Signs.

- A. Any sign that is illuminated must use non-glaring lights.
- B. All light shall be shielded so that there is no direct light transmitted to other properties or public rights-of-way.

Section 13.6. District Regulations.

- A. Signs in residential districts shall be regulated according to the following:
1. P-1, P-2, P-3, P-4, P-5, P-6, P-7, and P-8 signs shall be permitted provided they conform to the area limitations of Section 13.6.A.3 of this Ordinance.
 2. T-1, T-2, T-3, sign shall be permitted.
 3. Unless otherwise restrict by this Ordinance, no sign in any residential district shall exceed two (2) square feet, Two-hundred eighty eight (288) square inches, or twenty (20) inches in any dimension.
- B. Signs in the Town Center District shall be regulated according to the following:
1. The following signs shall be permitted in the Town Center District provided they are in conformance with the provisions of this Ordinance and comply with the area limitations of Section 13.6.B.2.
 - a. All signs permitted in Section 13.6.A.;
 - b. P-9;
 - c. P-10;
 - d. P-11; and
 - e. P-12.
 2. No sign in the Town Center (TC) District shall exceed six (6) square feet except where two (2) or more separate uses consolidate signs in which case the maximum sign size shall be equivalent to the number of uses multiplied by the six (6) square feet per allowable sign per use.
 3. All signs defined under Section 13.6.B.1 shall be permitted in the Town Center District subject to the regulations of Section 13.3.
- C. Signs allowed in the Commercial District shall be regulated according to the following:
1. P-1, P-2, P-3, P-4, P-5, P-6, P-7, P-8, P-9, P-10, P-11, P-12, P-13, P-14, and P-15 signs shall be permitted within the Commercial district.
 2. The size of any sign erected in the Commercial District shall be determined by the regulations of Section 13.2, but in no case shall the total area of one side of a sign exceed fifty (50) square feet.
 3. All signs defined under Section 13.3 shall be permitted in the Commercial District subject to the regulations of Section 13.3.
- D. Signs allowed in the Industrial District shall be regulated according to the following:
1. All types of permitted permanent signs established under Section 13.2 shall be permitted in the Industrial District.
 2. The size of all signs shall be governed by the regulations established under Section 13.2 of this Ordinance.

3. All signs defined under Section 13.3 shall be permitted in the Industrial District subject to the regulations of Section 13.3.

Section 13.7. Sign Permit and Fees; Requirements.

- A. For all signs within the Borough it is required that an application be filed with the Borough Secretary. Prior to erecting, installing or posting any sign, approval must be received in writing from the Zoning Officer. Such approval will be provided within ninety (90) days of such application.
- B. Permit application for signs in all zones shall be accompanied by a plan, drawn at scale, showing the following details:
 1. The exact wording or logo on the sign.
 2. Its size and location on the building and/or lots.
- C. Fees for sign permits shall be paid in accordance with the fee schedule adopted by the Borough Council and shall be deposited with the Borough Secretary at the time the permit application is received by the Borough.

Section 13.8. Sign Bonus.

- A fifty (50) percent reduction in the sign fee as established by the fee schedule shall be provided in the following cases:
- A. Where a sign utilizes design, format, font and style fitting the historical style and period of buildings and structures fifty (50) years previous and older.
 - B. When businesses combine and share signs within the limits of allowable square foot area.

Section 13.9. Signs Exempt from Fee.

- A. All signs identified under Section 13.2 as being P-2 or P-4. These signs require a permit and are subject to the requirements of this Part except that they are exempt from the fee schedule per square foot area of the sign set by the Borough Council for all other signs.
- B. "Open" and "Closed" signs do not require permits or fees provided businesses do not exceed two (2) such signs and each sign does not exceed three (3) square feet in area.
- C. Sign types P-1, P-3, P-5, and P-6 are exempt from permit and fee requirements.
- D. Sign types T-1 (except those exceeding six (6) square feet in size), T-2, T-5, T-7, and T-10 are exempt from permit and fee requirements.
- E. Although exempt from permit and/or fee requirements, all signs must conform to the other requirements of this Part.

Section 13.10. Inspection.

- A. Every sign shall be subject to the requirements of this Ordinance unless otherwise specified.
- B. Signs requiring a permit issued by the Borough shall require inspection and approval by the Borough Code Official.
- C. The Borough Code Official is authorized to order the removal of any sign that is not maintained in accordance with the provisions of this Ordinance.
- D. The foundation and structural support shall comply with the Borough Building Code.

Section 13.11. Removal of Signs.

- A. The following regulations shall apply when the circumstances leading to the erection of a sign no longer exist:
 - 1. The outstanding permit for such a sign shall automatically terminate.
 - 2. The sign shall be removed by its owner or the property owner.
 - 3. If any such sign is not removed, the Borough shall give the property owner and sign owner thirty (30) days written notice by certified mail, and by posting the property on which the sign is located, to effect the removal within fifteen (15) days of the date of posting.
- B. Dilapidated Signs
 - 1. Should a sign be deemed to be dilapidated, the Borough shall notify the sign owner and property owner in writing, by certified mail, and by posting the property on which the sign is located.
 - 2. Before such a sign may be repaired, a new sign permit application must be submitted and a new permit issued by the Borough.
 - 3. The new sign permit application must be received by the Borough within thirty (30) days of the date the property was posted; otherwise, the dilapidated sign must be promptly removed.
- C. Non-compliance
 - 1. If any sign, including a dilapidated sign, is not removed according to the provisions of this Part, the Borough may elect to remove the sign with the cost of removal being assessed against the property owner and/or sign owner.
 - 2. Failure to remove a sign within the designated time shall be deemed a violation of this Ordinance and the penalties of this Ordinance shall apply.

PART 14
Administration

Section 14.1. Enforcement.

A. Zoning Officer

The Borough Council shall appoint a Zoning Officer to enforce the provisions of this Ordinance. The Zoning Officer shall not hold any elected office in the Borough. The Zoning Officer may be removed for malfeasance, misfeasance or nonfeasance or for other just cause by a majority vote of Borough Council.

B. Duties and Powers of the Zoning Officer

The Zoning Officer shall have such duties and powers as are assigned by this Ordinance and are reasonably implied for the purpose of carrying out the following duties:

1. To enforce literally the provisions of this Ordinance, and subsequent amendments.
2. Receive and examine all applications for permits, and sign and issue permits in conformance with the terms of this Ordinance.
3. Record and file all applications for permits with any accompanying plans and documents. All information shall be matters of public record.
4. Maintain an official record of all business and activities, including complaints of violations of any of the provisions of this Ordinance and of the action taken on each such complaint. The Zoning Officer shall make such inspections as needed to fulfill his duties.
5. Issue permits for construction and uses which are in accordance with the requirements of this Ordinance
6. Issue permits for special exception uses and variances only after such uses and/or buildings have been approved by the Zoning Hearing Board in accordance with the regulations of this Ordinance.
7. Maintain the official copy of the Zoning Ordinance and map up to date so as to include all amendments thereto.

Section 14.2. Violations.

Failure to secure a permit prior to the use or change in use of land or building, or the erection, enlargement or alteration of a building or failure to secure a use and occupancy permit shall be a violation of this Ordinance.

A. Causes of Action.

Where any building or structure is erected, reconstructed, converted or maintained, or any building, structure or land is used in violation of this Ordinance, Borough Council, or, with the approval of Borough Council, the Zoning Officer may in the name of the Borough:

1. Institute any appropriate action or proceedings to prevent such unlawful activity.

2. Restrain or abate such violation.
3. Prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

B. Notice of Violation.

Where it appears to the Borough that a violation of any provisions of this Ordinance has occurred, the Zoning Officer shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.

1. The enforcement notice shall be sent to the owner of record of the lot on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.
2. The enforcement notice shall state the following:
 - a. The name of the owner of record and any other person against whom the Borough intends to take action;
 - b. The location of the property in violation;
 - c. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the Ordinance;
 - d. The date before which the steps for compliance must be commenced and the date before which steps must be completed;
 - e. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in the Ordinance; and
 - f. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

C. Discontinuance.

Where the notice of violation is not complied with in the time period set forth in the notice, the Zoning Officer shall order the discontinuance of such unlawful use of land, structure, or building involved in said violation.

D. Enforcement Remedies.

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, shall pay a judgement of not more than five hundred dollars (\$500) plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. If the defendant neither pays nor timely appeals the judgement, the Borough may enforce the judgement pursuant to applicable rules of civil procedure. Each day a violation continues constitutes a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person violating the Ordinance to have believed there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that

a violation continues shall constitute a separate violation. All judgements, costs, and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to the Borough.

Section 14.3. Permits - General.

A. Requirement of Permits

A permit shall be required prior to the erection or structural alteration of any buildings, structures, or portion thereof, prior to the use or change in use of a building or land, and prior to the change or extension of a nonconforming use or structure. Applications for permits shall be made in writing to the Zoning Officer on such forms as may be furnished by the Borough. Such application shall contain all information necessary for such officer to ascertain whether the proposed erection, alteration, use, or change in use complies with the provisions of this Ordinance. All permits issued shall be valid for a specific time period of not more than six (6) months, but may be renewed for a total time period not to exceed two (2) years.

B. Issuance of Permits.

Permits shall be granted or refused within ten (10) days after date of application. In case of refusal, the applicant shall be informed of his right of appeal to the Zoning Hearing Board. Upon completion of the erection or alteration of any building or portion thereof authorized by any permit, and prior to occupancy or use, the holder of such permit shall notify the Zoning Officer of such completion. No permit shall be considered complete or permanently effective until the Zoning Officer has certified that the work has been inspected and approved as being in conformity with the permit and the provisions of this Ordinance and other applicable Ordinances and a Use and Occupancy Permit has been issued. All applications with accompanying plans and documents shall be public record.

C. Temporary Permits.

A temporary permit may be authorized by the Zoning Officer, for a proposed nonconforming structure or use which it deems beneficial to the public health or general welfare or which it deems necessary to promote the proper development of the community, provided that such nonconforming structure or use shall be completely removed upon expiration of the permit without cost to the Borough. Such permit shall be issued for a specified period of time not exceeding six (6) months, and may be renewed for an aggregate period of not more than two (2) years.

D. Payment

All application fees must be paid to the Borough Secretary at the time the permit is issued by the Borough.

E. The applicant shall pay all costs incurred by the Borough in reviewing the application. This obligation is not limited to the amounts paid as application or service fee schedule.

Section 14.4. Conditional Use Procedures.

A. Intent

In order to limit the potential impact that certain uses may create on other surrounding uses and to the general welfare of the Borough, certain reasonable conditions and safeguards are imposed prior to granting approval of a conditional use.

B. Requirements.

The following provisions shall apply to conditional use applications, in addition to the provisions of the district in which the proposed use is located and any other regulations imposed by this Ordinance.

C. Application.

The application for a Conditional Use Permit shall include a proposed plan indicating the size and location of the proposed use, the location of all proposed buildings and facilities, and the location of all existing buildings and structures on adjacent properties within five hundred (500) feet of the property line. Application for a Conditional Use Permit shall be filed with the Borough Secretary with accompanying forms, text and fees.

D. Notice to Landowners

All adjacent land owners and owners of land within five hundred (500) feet of the property shall be notified by the applicant of the conditional use application. The applicant shall be able to show proof at the Conditional Use Hearing that all property owners were notified.

E. Procedure for Review.

1. The Borough Planning Commission shall review each Conditional Use request pursuant to the criteria under Section 14.4.F., and submit its recommendations to Borough Council.
2. The Borough shall submit each Conditional Use to the Chester County Planning Commission for review and comments a minimum of thirty days (30) prior to the holding of a public hearing. No!
3. After review by the Planning Commission, Borough Council shall hold a public hearing pursuant to public notice. The public hearing shall be held within ninety (90) days from the date the application was filed. 60
4. Following the Public Hearing, Borough Council shall render a decision on the matter in accordance with the provisions setforth in Section 14.5.E.

F. Criteria.

The following criteria shall be used as a guide in evaluating a proposed Conditional Use. The burden of proof in establishing that all criteria have been met shall at all times rest upon the applicant.

1. The proposed use at the location in question shall be in the public interest and best serve the public health, safety, and general welfare.
2. The proposed use shall be consistent with the goals and objectives of the Borough Comprehensive Plan and those of the Borough Open Space, Recreation, and Environmental Resource Plan.
3. The size, scope, extent and character of the proposed use shall be consistent with the spirit, purpose and intent of this Ordinance.
4. The applicant shall take into consideration the character and type of development in the area surrounding the tract, and determine that the proposed change will not injure or detract from the use of surrounding properties or from the character of the neighborhood.

5. Consider the effect of the proposed use with respect to the most appropriate use of land, conserving building and property values, and safety from fire and other dangers.
6. Sufficient land area shall be made available to be able to effectively screen the proposed Conditional Use from adjoining different uses.
7. Sufficient safeguards for parking, traffic control, screening, setbacks and other design requirements under Part 11 can be implemented to remove any potential adverse influences created by the proposed use.
8. There will be limited impact and effect on buildings or districts of historical or architectural significance.

G. Safeguards.

In granting a Conditional Use, Borough Council may attach such reasonable conditions and safeguards in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

Section 14.5. Power of Amendment.

Borough Council may from time to time amend, supplement, change, modify or repeal this Ordinance including the Zoning Map in accordance with the provisions of this Article and the Pennsylvania Municipalities Planning Code, as amended.

A. Procedure.

The following procedure shall be observed prior to the adoption of any amendment or change to this Ordinance or the Official Zoning Map.

B. Planning Commission Referral.

All proposed amendments or changes to the existing Ordinance prior to adoption shall be submitted for review according to the following:

1. Every proposed change shall be referred to the Chester County Planning Commission for recommendations a minimum of thirty (30) days prior to holding a public hearing.
2. In the case an amendment other than that prepared by the Borough Planning Commission, Borough Council shall submit each such amendment to the Borough Planning Commission at least thirty (30) days prior to the hearing on such proposed amendment to provide the Borough Planning Commission an opportunity to submit recommendations.

C. Notice of Hearing.

Borough Council shall advertise public hearings by publishing a notice each week for two (2) consecutive weeks, stating the time and place such hearings shall occur. Said advertisements shall be published in a newspaper having general circulation in the Borough. The first of such advertisements shall occur not more than thirty (30) days, while the second shall not occur less than seven (7) days before the date fixed for the hearing. The notice shall include the particular nature of the matter to be considered at the hearing, and a reference to a place within the Borough where copies of the proposed Ordinance, amendment, change or repeal may be examined.

D. Public Hearing.

Prior to taking action on any amendment or change to the Ordinance or Map, Borough Council shall hold a public hearing pursuant to public notice. The time and place of public hearings shall be fixed by Borough Council. Full opportunity to be heard will be given to any citizen and all parties interested in attending such hearing.

E. Decision.

Borough Council shall not take action on the proposed change until the Borough Planning Commission and Chester County Planning Commission recommendations are made. If such recommendations are not received by Borough Council within thirty (30) days from the date the referral was received by the agencies, Borough Council may proceed without such recommendations. Zoning Ordinances, amendments, changes and referrals shall be adopted by Borough Council at their regularly scheduled meeting within ninety (90) days after the public hearing. Such changes shall be incorporated into the official Zoning Ordinance by reference with the same force and effect as if duly reported therein.

F. Amendments

Any person or property owner may apply for an amendment to the Zoning Ordinance. Said amendment shall follow the procedure set forth in this section provided:

1. The applicant is an equitable owner in all or part of the property effected by the proposed amendment.
2. The applicant follows the procedures of Act 247, the Pennsylvania Municipalities Planning Code.
3. The applicant submits the full proposal to the Zoning Officer.

G. Landowner petition.

Whenever the owners of fifty (50) percent or more of the total area of a Zoning District shall present to the Borough Council a petition, duly signed and acknowledged, requesting an amendment, supplement, change, modification or repeal of any of the regulations or restrictions prescribed by this Ordinance for their District, it shall be the duty of the Council to hold a public hearing. Such hearings shall comply with the provisions of Section 14.5.D.

Section 14.6. Curative Amendments.

A. Application.

A landowner who desires to challenge on substantive grounds the validity of the Zoning Ordinance or Map or any provisions thereof, which prohibits or restricts the use or development of land in which he has an interest may submit an application for curative amendment to Borough Council.

B. Procedure.

Borough Council shall commence a public hearing on the proposed curative amendment within sixty (60) days of receiving the request pursuant to the following:

1. An application shall be submitted to Borough Council and shall include a written request that the challenge and proposed amendment be heard and decided in a public hearing pursuant to section 14.5.

2. The curative amendment shall be referred to the Borough Planning Commission and the Cour' Planning Commission for review and recommendations as provided in Section 14.5.B.
3. Public notice of the hearing shall be published as outlined in section 14.5.C.

C. Determination

Within forty-five (45) days of the conclusion of the hearing, Borough Council shall prepare a determination as follows:

1. Borough Council may decide that the challenge has no merit, at which time the Council may choose to take no action.
2. Borough Council may determine that the validity challenge has merit and may;
 - a. accept the curative amendment as proposed by the landowner;
 - b. accept the curative amendment as proposed by the landowner with revisions; or
 - c. may adopt an alternative amendment which will cure the challenged defects.

Section 14.7. Municipal Liability.

The granting of any permit under this Ordinance by the Borough Zoning Officer, or the use of land or structures shall not constitute a guarantee or warranty of any kind by the Borough or any of its officials or employees as to any manner of injury resulting from such use, erection, alteration or extension, and shall create no liability upon, or a cause of action against such public body, officials or employees for any damages or injury that may result.

PART 15
Zoning Hearing Board

Section 15.1. Membership of the Board.

The Zoning Hearing Board shall consist of three (3) members appointed by the Borough Council.

Section 15.2. Term of Office.

The term of each member shall be three (3) years and shall be so fixed that the term of office of one (1) member shall expire each year. Should any member resign prior to the expiration of his or her term, the Zoning Hearing Board shall promptly notify the Borough Council so that the Borough Council may fill the unexpired term of the vacant Zoning Hearing Board position.

Section 15.3. Alternate Members.

The governing body may appoint by resolution at least one (1) but not more than three (3) residents of the municipality to serve as alternate members of the Board according to the following:

- A. The term of office of an alternate shall be three (3) years.
- B. When seated pursuant to the provisions of Section 15.4.B.2., an alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this act as otherwise provided by law.
- C. Alternates shall hold no other office in the Borough, including membership on the Planning Commission or as Zoning Officer.
- D. Any alternate may participate in any proceeding or discussion of the Board but shall not be entitled to vote as a member of the Board nor be compensated pursuant to Section 15.5 unless designated as a voting alternate member pursuant to Section 15.4.B.2.

Section 15.4. Organization of the Board.

A. Officers.

The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves.

B. Quorum.

1. For the conduct of any hearing and the taking of any action, a quorum of the members shall be required, with the exception 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 in Section 15.7.
2. If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate as many alternate members to sit on the Board as may be needed to provide a quorum. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed until the

Board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among alternates.

C. Record of Proceedings.

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

D. Removal of Members.

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

Section 15.5. Expenditures for Services.

- A. Within the limits of the funds appropriated by the Borough Council, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services.**
- B. Members of the Board may receive compensation for the performance of their duties, as may be fixed by the governing body, but in no case shall it exceed the rate of compensation authorized to be paid to the members of Borough Council.**
- C. Alternate members of the Board may receive compensation, as may be fixed by Borough Council, for performance of their duties when designated as alternate members pursuant to Section 15.4.B.2 but in no case shall such compensation exceed the rate of compensation authorized to be paid to the members of Borough Council.**

Section 15.6. Jurisdiction.

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

A. Appeals from the Zoning Officer.

The Board shall hear and decide appeals where it is alleged that the Borough Zoning Officer has failed to follow prescribed procedures or has misinterpreted or misapplied any provision of a valid Ordinance or map of the Borough or any valid rule or regulation governing the duties of the Zoning Officer.

B. Variances.

The Board shall hear requests for variances where it is alleged that the provisions of this Zoning Ordinance create unnecessary hardship on an applicant when applied to a tract of land. In granting a variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards it may deem necessary as prescribed in Section 15.9 to implement the purposes of the Municipalities Planning Code; the Comprehensive Plan; the Open Space, Recreation, and Environmental Resources Plan; and this Zoning Ordinance.

C. Special Exceptions.

To hear and decide special exceptions to the terms of this Ordinance upon which the Zoning Hearing Board is required to pass under this Ordinance in accordance with the terms and provisions set forth in Section 15.10 of this Ordinance.

D. Validity of the Zoning Ordinance.

The Board shall hear and make findings on challenges to the validity of the Zoning Ordinance with respect to substantive questions. The Board shall also hear and decide procedural challenges to the validity of any land use Ordinance within thirty (30) days of enactment. This will include challenges that raise questions of defective enactment. A procedural appeal from the enactment of the Zoning Ordinance shall initially be heard by the Board rather than the court.

E. Appeals from Determinations by the Zoning Officer or Borough Engineer.

The Board shall hear and make decisions on appeals from determinations by the Zoning Officer or Borough Engineer with reference to the floodplain Ordinance with reference to sedimentation, erosion control, and stormwater management.

Section 15.7. Hearings.

The Board shall conduct hearings and make decisions in accordance with the following requirements:

A. Notice of Hearings.

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

B. Fees.

Borough Council may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board by resolution. Fees for said hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultants or expert witness costs.

C. Timing.

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

D. Decision.

The hearing shall be conducted by the Board or the Board may appoint any member as a Hearing Officer. The decision, or, where no decision is called for, the findings shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the Borough, may, prior to the decision of

the hearing, waive the decision or findings by the Board and accept the decision or findings of the Zoning Hearing Officer as final.

E. Parties to the Hearing.

1. The parties to the hearing shall be the following:

- a. The Borough;
- b. Any person affected by the application who has made timely appearance of record before the Zoning Hearing Board; and
- c. Any other person including civic or community organization permitted to appear by the Zoning Hearing Board.

2. The Board shall have the power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Zoning Hearing Board for that purpose.

F. Powers of the Chairman.

The chairman or acting chairman of the Board or the Hearing Officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant document and papers, including witnesses and documents requested by the parties.

G. Rights of the Parties.

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

H. Rules of Evidence.

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

I. Record of Proceedings.

The Board or the Hearing Officer, as the case may be, shall keep a stenographic record of the proceedings.

J. Communications.

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

K. Decisions.

1. The Board or the Hearing Officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days of the

conclusion of the hearing, except when an applicant agrees to an extension of time. Each decision shall be accompanied by findings and conclusions together with the reasons for such conclusions. Conclusions based on any provisions of this Ordinance or of any act, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.

2. If the hearing is conducted by a Hearing Officer, and there has been no stipulation that this decision or findings are final, the Board shall make its report and recommendations available to the parties. The parties shall be entitled to make written representations to the Board prior to final decisions or entry of findings. Where the Board has power to render a decision and the Board or the Hearing Officer, as the case may be, fails to render the same within the period required by this clause, the decision shall be deemed to have been rendered in favor of the applicant.
3. A copy of the final decision or, where no decision is called for, a copy of the findings shall be delivered to the applicant personally or by certified mail no later than the day following the date of the final decision or findings. The Board shall provide by mail or otherwise a brief notice of the decision or findings and a statement of the place where the full decision may be examined to all other persons who have filed their names and addresses to the Board no later than the last day of the hearing.
4. Decisions made by the Board or the governing body may only be appealed to the Court of Common Pleas. However, any person aggrieved by a decision may appeal to the Board if they establish and prove that they had no notice, knowledge, or reason to believe that any action was being taken. That aggrieved party has thirty (30) days from the date of the decision to appeal.

Section 15.8. Appeals to Court.

Any person or persons aggrieved by any decision of the Zoning Hearing Board, or any Borough taxpayer, or any officer of the Borough, may, within thirty (30) days after such decision of the Board, appeal to the court of common pleas of the County by petition, duly verified, setting forth that such decision is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law and specifying the grounds upon which he relies.

Section 15.9. Variances.

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

4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
 5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulations in issue.
- B. In granting a variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Comprehensive Plan; Open space, Recreation, and Environmental Protection Plan; the Route 41 Corridor Study; and this Ordinance.

Section 15.10. Special Exceptions.

A. Intent

In order to limit the potential impact that certain uses may create on other surrounding uses and the general welfare of the Borough, certain reasonable conditions and safeguards are imposed prior to granting approval of a Special Exception.

B. Requirements.

The following provisions shall apply to Special Exception applications, in addition to the provisions of the district in which the proposed use is located.

C. Application.

The application for a Special Exception shall include a proposed plan indicating the size and location of the proposed use, the location of all proposed buildings and facilities, and the location of all existing buildings and structures on adjacent properties within five hundred (500) feet of the property line. Application for a Special Exception shall be filed with the Borough Secretary with accompanying forms, text and fees.

D. Notice to Landowners

All adjacent land owners and owners of land within five hundred (500) feet of the property shall be notified by the applicant of the Special Exception application. The applicant shall be able to show proof at the hearing that all property owners were notified.

E. Procedure for Review.

1. The Borough Planning Commission shall review each Special Exception request pursuant to the criteria under Section 15.10.F., and submit its recommendations to the Zoning Hearing Board.
2. After review by the Planning Commission, the Zoning Hearing Board shall hold a public hearing pursuant to public notice. The public hearing shall be held within ninety (90) days from the date the application was filed.
3. Following the Public Hearing, the Zoning Hearing Board shall render a decision on the matter in accordance with the provisions set forth in section 15.7.K.

F. Criteria.

1. In any instance where the Zoning Hearing Board is required to consider a Special Exception in accordance with the provisions of this Ordinance, the applicant shall be required to establish that all of the following criteria have been met:
 - a. The proposed use at the location in question shall be in the public interest and best serve the public health, safety, and general welfare;
 - b. The proposed change will serve the best interests of the Borough, the convenience of the community (where applicable), and the public welfare;
 - c. The proposed use shall be consistent with the goals and objectives of the Borough Comprehensive Plan and those of the Borough Open Space, Recreation, and Environmental Resource Plan;
 - d. The size, scope, extent and character of the proposed use shall be consistent with the spirit, purpose and intent of this Ordinance;
 - e. Applicant shall take into consideration the character and type of development in the area surrounding the tract, and determine that the proposed change will not injure or detract from the use of surrounding properties or from the character of the neighborhood;
 - f. The proposed change will not substantially injure or detract from the use of neighboring property or from the character of the neighborhood and that the use of the property adjacent to the area included in the proposed change or plan is adequately safeguarded;
 - g. Consider the effect of the proposed use with respect to the most appropriate use of land, conserving building, and safety from fire and other dangers;
 - h. Sufficient land area shall be made available to be able to effectively screen the proposed Special Exception from adjoining different uses;
 - i. The location of the proposed use creates a logical, efficient, and economical extensions of public services and facilities such as streets, public water, sewers, police and fire protection, and public schools;
 - j. Sufficient safeguards for parking, traffic control, screening, setbacks and other design requirements can be implemented to remove any potential adverse influences created by the proposed use;
 - k. There will be limited impact and effect on buildings or districts of historical or architectural significance; and
 - l. The historic nature and atmosphere of residential neighborhoods shall be retained.
2. The Zoning Hearing Board may impose such conditions, in addition to those required, as are necessary to assure that the intent of the Zoning Ordinance is complied with, which conditions may include, but are not limited to, harmonious design of buildings, planting and its maintenance as a sight or sound screen, the minimizing of noxious, offensive or hazardous elements, adequate standards of parking, and sanitation.

PART 16
Nonconforming Uses, Structures, and Lots

Section 16.1. Nonconforming Uses.

A. Continuation.

Any lawful use of a building or land existing at the effective date of this Ordinance, or previously authorized by a permit issued prior to the effective date of this Ordinance, may be continued although such use no longer conforms to the provisions of this Ordinance.

B. Expansion.

A building that contains a nonconforming use, or freestanding non-conforming use, may be extended up to fifty (50) percent of the area occupied by such use at the effective date of this Ordinance provided that such nonconforming use may be extended more than fifty (50) percent when authorized as a Special Exception.

C. Changes in Use.

1. A nonconforming use of a building or land may be changed to a nonconforming use of the same or similar character, or a use more in conformity with the permitted uses of the district provided no structural alterations are made therein.
2. Where a structural change is proposed, the proposal is required to obtain Special Exception authorization from the Zoning Hearing Board.
3. Whenever a nonconforming use of a building or land has been changed to a nonconforming use of the same or similar character, a use more in conformity with the permitted uses of the district, or to a conforming use, such use shall not thereafter be changed to a less conforming use.

D. Abandonment.

If a nonconforming use of a building or lot ceases for a continuous period of one (1) year or more any subsequent use of such building or land shall be in conformity with the provisions of this Ordinance.

Section 16.2. Nonconforming Buildings and Structures.

A. Continuation.

Except as otherwise provided in this Ordinance, any nonconforming building or structure in existence at the time of adoption of this Ordinance or permitted through the issuance of a building permit prior to adoption of this Ordinance, may be continued in accordance with the provisions of this Ordinance.

B. Extension or Enlargement

Any extension or enlargement shall require approval by the Zoning Hearing Board as a Special Exception and shall not further violate any area, yard, or height regulations which are not met by the existing nonconforming building or structure.

C. Restoration.

A nonconforming building wholly or partially destroyed by fire, explosion, flood, or other phenomenon, or legally condemned may be reconstructed and used for the same conforming or nonconforming use, provided that:

1. The reconstructed building shall not exceed the prior nonconformities as to height, area, or volume of the building destroyed or condemned.
2. Building reconstruction shall be commenced within one (1) year from the date the building was destroyed or condemned and shall be carried on without interruption.

Section 16.3. Nonconforming Lots.

A building may be erected or altered on any lot held at the effective date of this ordinance in single and separate ownership which is not of the required minimum area or width or is of such unusual dimensions that the owner would have difficulty in providing the required open spaces for the district in which such lot is situated, in compliance with the following:

- A. The use of the lot complies with the regulations of the district in which the lot is located.
- B. The building complies with area and bulk regulations for the district in which the lot is located, and a Special Exception is authorized.
- C. In the event the applicant owns adjacent property sufficient to enable him to comply with the provisions of this Ordinance, such property or portions thereof shall be combined prior to the erection or alteration of a building or structure in order to permit full compliance.

Section 16.4. Reduction of Lot.

No lot shall be so reduced that the area of the lot or subsequent lots, or the dimensions of the open spaces, shall be smaller than prescribed by the regulations of this Ordinance.

Section 16.5. Public Utility Corporations.

This ordinance shall not apply to any existing or proposed building, or extensions thereof, used or to be used by public utility corporations, if, upon petition of the corporation, the Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.

