

<p style="text-align: center;">ARTICLE 8 SUPPLEMENTAL REGULATIONS</p>

SECTION 801 PURPOSE AND INTENT

Certain uses of land and/or buildings, as specified herein, whether permitted by right, special exception and or conditional use, shall be subject to supplemental regulations in addition to those of the district in which the use is located.

SECTION 802 USE REGULATIONS

802.01 ANIMAL HOSPITAL

An animal hospital shall maintain all activities within a completely enclosed soundproof building, and no objectionable odors shall be vented outside the building. No animal hospital shall be located less than twenty-five (25') feet from any property line.

802.02 AUTOMOBILE RELATED ACTIVITIES

- A. Automotive Repairs (Repair Garage): Activities including the repair of automobiles, trucks, snowmobiles and motorcycles shall be conducted within a completely enclosed building where adequate measures shall be taken to minimize noise, vibrations, fumes and glare. Only vehicles to be repaired on the premises or picked up by the vehicles' owner may be stored in the yard area. Where the operation abuts on the side or rear property line of a district having residences as a principal permitted use, a solid wall or substantial attractive fence six (6') feet in height shall be constructed and maintained in good condition along such boundary. Outside lighting shall be directed away from adjacent properties.
- B. Automotive Sales: The outdoor display of new or used automobiles, panel are conducted within a completely enclosed building designed and constructed to minimize noise, fumes, vibrations and glare. Where an automotive sales use abuts a rear or side lot line of any district having residences as a principal permitted use, a solid wall or substantial, attractive fence six (6') feet in height shall be constructed and maintained in good condition along such boundary. Outside lighting shall be directed away from adjacent properties.
- C. Car Wash: Appropriate drainage facilities for washing activities shall be provided. The site shall be sufficiently large to accommodate three (3) cars per stall awaiting washing during peak periods so that lines along public streets are avoided. Such operations shall also comply with any applicable regulations of the Pennsylvania Department of Environmental Resources. Car wash operations abutting on the side or rear property lines of a district having residences as a principal permitted use shall provide a solid wall or

substantial, attractive, tight fence being six (6') feet in height and well maintained along such boundary. Outdoor lighting shall be directed away from adjacent activities.

- D. Gasoline Service Stations: When a service station abuts on the rear or side lot line of a district having residences as a principal use, a solid wall or substantial attractive fence being six (6') feet in height shall be constructed and maintained in good condition along such boundary. When a service station occupies a corner lot, the access driveways shall be located at least sixty (60') feet from the intersection of the front and side street lines of the lot. All access driveways shall not exceed twenty-five (25') feet in width. Gasoline pumps or other service appliances may be located in the required front yard not to exceed fifteen (15') feet. All repairs, service, storage or similar activities in connection with the use shall be conducted within the building where adequate measures shall be taken to minimize noise, fumes and glare. Outside lighting shall be directed away from adjacent properties

802.03 BANKS

Banks and other similar financial offices shall provide sufficient space to accommodate parking, vehicular circulation areas for drive-in tellers, access areas for parking lots separated from drive-in areas, and areas for pedestrian traffic separated from vehicular traffic for safety. Access driveways shall be no more than twenty-five (25) feet in width. Canopies over drive-through areas shall meet all yard setback requirements.

802.04 BOARDING HOUSE

The property shall be limited to providing lodging for not more than four (4) persons, excluding the owner of the property. Off-street parking spaces shall be provided for each person residing therein.

802.05 CEMETERIES

A structure, grave or place of permanent burial shall be set back not less than fifty (50') feet from the property line. The cemetery shall be enclosed by a fence, wall or shrubbery at least three (3') feet in height. The interior roads shall have a minimum width of twelve (12') feet and shall be properly maintained with either gravel or paving.

802.06 COMMUNITY CENTER (as defined in Article 2)

Buildings utilized for such purposes shall not be less than twenty (20) feet from any property line. Where the use abuts on the rear or side lot line on the side or rear property line of any R District, a solid wall or substantial attractive fence not less than six (6) feet in height, designed to conceal and screen the use from adjoining properties, shall be constructed and maintained in good condition along such boundary. The provision of any outside lighting shall be directed away from adjacent properties.

802.07 CONTRACTORS' STORAGE YARDS

Commercial or industrial uses utilizing outdoor storage space which exceeds an area of more than two thousand (2000) square feet shall be located on a tract of land of not less than twenty-five thousand (25,000) square feet. Supplies stored outdoors shall be neatly arranged and no required yard areas shall be used for storage. There shall be a roadway fourteen feet in width provided for in every forty linear (40) feet of stored materials. The roadway shall be kept passable for fire-fighting equipment. Where the operation abuts on the rear or side lot line of a district having residences as a principal permitted use, a solid wall or substantial fence being six (6') feet in height shall be constructed and maintained in good condition along such boundary. Outside lighting shall be directed away from adjoining properties.

802.08 CONVENIENCE STORE WITH GASOLINE PUMPS

The property shall have a lot area of not less than twenty thousand (20,000) square feet. The principal structure as well as the canopy over gasoline pumps shall meet all the minimum setback requirements for all yards in the district in which it is located. Where the operation abuts on the rear or side lot line of a district having residences as a principal permitted use, a solid wall or substantial fence being six (6') feet in height shall be constructed and maintained in good condition along such boundary. A parking area accommodating all spaces required by Article 11 shall be provided. Access driveways shall be no more than twenty-five (25) feet wide at the street line, and in the case of a corner lot, access driveways shall be at least sixty (60) feet from the intersection of the two streets, as measured from the right-of-way line. All lighting shall be directed away from adjoining property.

802.09 CHILD CARE FACILITIES

All day care facilities, as so defined in Article 2 of this Ordinance, shall comply with the following:

- A. The applicant or owner shall provide evidence of certification of compliance with all appropriate regulations of any designated State agency whose approval is required by the laws of the Commonwealth.
- B. Noise and all other possible disturbing aspects connected with such use shall be controlled to the extent that the operation of such use shall not unduly interfere with the use and enjoyment of properties in the surrounding area.
- C. All outdoor play areas shall be completely enclosed with a fence being six (6') feet in height. Outdoor play activities shall be limited to the hours between 10:00 A.M. to 5:00 P.M. local time.

- D. The applicant shall provide evidence that vehicular traffic congestion will be avoided in "pick-up and drop-off points" utilized in transporting children to and from the facility.

802.10 DWELLING OVER OR ATTACHED TO A BUSINESS ESTABLISHMENT

Dwellings units may be permitted over or attached to business establishments in any zoning district. Such dwellings shall have private access and the required residence parking spaces in addition to commercial parking spaces as required by Article 11.

802.11 EATING AND DRINKING ESTABLISHMENTS

All eating and drinking establishments shall meet the parking requirements as set forth in Article 11 of this Ordinance. Access drives shall not exceed twenty-five (25') feet in width and for those establishments located on a corner lot, no access drive shall be located less than sixty (60') feet of an intersection, as measured from the right-of-way lines, from the intersection of the two abutting streets. Outside lighting shall be directed away from adjacent properties.

802.12 ENTERTAINMENT FACILITIES

Entertainment facilities as defined in Article 2 of this Ordinance shall provide proper parking areas with vehicular circulation and access designed to minimize any potential traffic congestion. Such facilities shall not be closer than twenty (20') feet from any boundary of a district having residences as principal permitted use, shall provide adequate screening from any residential district, and shall be conducted entirely within an enclosed structure.

802.13 FUNERAL HOME

Funeral homes shall accommodate all of the parking areas required as provided in Article 11 of this Ordinance. In addition, sufficient area shall be provided for vehicular circulation on the lot and for the assembly area for the procession beyond the street right-of-way line. Points of vehicular access to the site shall not create traffic hazards on the street. Loading and unloading areas for ambulances and hearses shall be within an enclosed building or shall be screened from view from adjacent properties by a solid wall or substantial, attractive fence being six (6') feet in height. Outside lighting shall be directed away from adjacent properties.

802.14 GROUP RESIDENCE

Any party wishing to establish and/or operate a "Group Residence", in addition to all other applicable zoning regulations and/or requirements, shall be subject to the following supplemental requirements:

- A. The maximum occupancy of a Group Residence shall not exceed five (5) persons, excluding staff. The occupancy of said Group Residence shall be governed by the standards and requirements as provided for within the most recent housing code standards of the BOCA Code.
- B. The Group Residence shall be under the jurisdictional and regulatory control of a governmental entity (County, State and/or Federal).
- C. The applicant and/or operator of Group Residence shall provide written documentation from the applicable governmental entity which certifies said Group Residence complies with the location, supervised services, operation, staffing and management of all applicable standards and regulations of the subject governing program.
- D. The applicable requirements and standards which govern off-street parking for a single family dwelling shall also govern for a Group Residence, however two additional off-street parking spaces shall be provided any if there is any required staffing associated with the management and operation of a Group Residence.

802.15 HOME OCCUPATIONS

A home occupation which is conducted within a dwelling unit or an existing accessory building to the dwelling shall be subject to the following provisions:

- A. The occupation shall be carried on wholly indoors, within the principal building or within a building accessory thereto.
- B. There shall be permitted a sign, not to exceed two (2) square feet in surface area, placed flat against the building as a wall sign, and shall not be permitted above the first story level. No other exterior display or exterior storage of materials or any other exterior indication of the home occupation shall be permitted.
- C. There shall be no maintenance of a stock in trade or show windows or displays or advertising visible outside the premises.
- D. No articles shall be sold or offered for sale except those which are produced on the premises.
- E. There shall be no repetitive servicing by truck.
- F. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.
- G. The home occupation shall be carried on only by members of the immediate family residing in the dwelling unit, plus not more than two (2) additional

employees. Licensed medical practitioners and attorneys may have more than two (2) additional employees, subject to approval by the Zoning Hearing Board.

- H. The floor area devoted to a home occupation, regardless of where located on a lot, shall be equivalent to not more than twenty (20%) percent of the floor area of the dwelling unit.
- I. Each home occupation shall have off-street parking as indicated below, in addition to that required for the dwelling unit:
 - (1) Four (4) spaces for each physician, dentist, or other licensed medical practitioner.
 - (2) Two (2) spaces for all other home occupations.

802.16 INDUSTRIAL ACTIVITIES

In addition to the applicable requirements of this Ordinance, all industrial activities and uses permitted by right, special exception and/or conditional use within the I-1 District shall comply with all regulations governing odors, fumes, dust, smoke, vibration, noise, sewage, industrial waste, fire hazards and any other of the activities and uses with side effects are deemed injurious to the public health, safety and welfare by the United States Environmental Protection Agency (EPA), the Pennsylvania Department of Environmental Protection (DEP) and the Pennsylvania Department of Labor and Industry. It shall be the responsibility of the applicant to provide the Zoning Officer with a complete listing of all State and federal regulations governing the proposed use and written compliance from the governing

802.17 JUNK YARDS AND AUTOMOTIVE WRECKING YARDS

All junk yards and automotive wrecking yards existing at the effective date of this Ordinance shall comply within one (1) year after the adoption thereof. All new junk yards and automotive wrecking yards shall comply with the following:

- A. Such premises shall at all times be maintained so as not to constitute a nuisance or menace to the health of the community or residents nearby or a place for the breeding of rodents and vermin.
- B. Burning of any materials shall be prohibited.
- C. No oil, grease, tires or gasoline shall be burned at any time.
- D. No garbage, organic waste, rubbish, toxic materials and hazardous materials shall be stored on such premises.

- E. Whenever any motor vehicle shall be received on such premises as junk, all gasoline and oil shall be drained and removed therefrom.
- F. The storage of any combustible materials, such as gasoline, oil or related items, shall be placed in fireproof containers and stored within fireproof sheds.
- G. The manner of storage and arrangement of junk and the drainage facilities on the site shall be such as to prevent the accumulation of stagnant water upon the premises. A storm water drainage plan shall be required.
- H. There shall be no stockpiling of motor vehicles, nor shall there be any junk piled higher than four (4') feet.
- I. There shall be a roadway fourteen (14') feet in width provided for every forty (40) linear feet of junk. The roadway shall be kept open and unobstructed for proper access for fire fighting equipment and safety purposes.
- J. Junk shall not be stored within one hundred (100') feet of any adjoining property line or nearer than one hundred (100') feet to any adjoining or abutting street.
- K. All junk yards shall be completely screened from view on all sides by a buffer area as so defined in Article 2 of this Ordinance. The required fence shall be not closer than twenty (20) feet to any property line.
- L. Such premises may be open for business or any work in connection with the storage, processing and transportation or removal of junk only on Monday, through Saturday from 8:00 A.M. to 4:00 P.M., local time.

802.18 MOTELS AND HOTELS

Motels and Hotels shall uses shall require a minimum lot size of not less than two (2) acres with a lot width of not less than two hundred (200) feet. The following requirements shall also apply:

- A. There shall be more than ten (10) sleeping rooms.
- B. Fifty (50%) percent or more of the gross floor area shall be devoted to sleeping rooms.
- C. There may be club rooms, ballrooms, and common dining facilities.

- D. In the case of a corner lot, access drives shall be not less than sixty (60) feet from the intersection of any two streets as measured from the intersection of their right-of-way lines.

802.19 OUTDOOR STORAGE

Outdoor storage, as defined in Article 2, when proposed as a principal use of land or as an element of a principal use, shall be enclosed with a chain link fence not less than six (6) feet in height. A Soil Erosion and Sedimentation Control Plan and Stormwater Drainage Plan shall be required for all areas of impervious surface in excess of five hundred (500) square feet used for such storage. A complete listing of all types of machinery, material and items to be stored therein shall be attached to the required Zoning Application. No hazardous substances, as so defined in Article of this Ordinance, shall be permitted upon the site.

802.20 PLACE OF WORSHIP:

A parking area shall accommodate all parking spaces as required in Article 11 of this Ordinance. Access driveways shall be not greater than twenty-five (25') feet in width. In the case of a corner lot, access driveways shall be not less than sixty (60') feet from the intersection of the two streets, as measured from the intersection of their right-of-way lines. Where the parking area abuts existing residences on the side or rear property line, a buffer area, consisting of shrubbery or evergreen trees, being not less than four (4) feet in height at the time of planting, shall be provided.

802.21 PUBLIC USES

- A. MUNICIPAL, POLICE AND FIRE BUILDINGS: Where the parking area abuts the side or rear property lines of an adjoining residential use, a fence being six (6') feet in height and a buffer area consisting of shrubbery or evergreen trees shall be provided.
- B. PUBLIC AND PRIVATE SCHOOLS: The size of a lot shall meet the minimum requirements as prescribed by the Pennsylvania Department of Education. Access to the site shall be from an arterial or collector street. Access driveways shall not exceed twenty-five (25') feet in width. In the case of a corner lot, access driveways shall be not less than sixty (60') feet from the intersection of the two streets, as measured from the intersection of their right-of-way. Loading and unloading areas, parking areas and circulation shall be provided in accordance with Article 11 of this Ordinance.

802.22 RECREATIONAL FACILITIES - (OUTDOORS)

All new facilities, whether public, private or commercial, shall conform to the following regulations:

- A. No outdoor recreation activity shall be conducted closer than fifty (50') feet to any property line.
- B. A buffer area, at least ten (10') feet in depth and planted with trees, shrubs or other landscaping, shall surround the property except for access drives.
- C. Access drives shall be not greater than twenty-five (25') feet in width; parking areas shall not be located within buffer areas.
- D. Storm drainage from the site shall be channeled to natural drainage courses and away from adjoining properties.

802.23 ROOMING HOUSE/ BOARDING HOUSE

The property shall be limited to providing lodging for not more than four (4) persons, excluding the owner of the property. Off-street parking spaces shall be provided for each person residing therein.

802.24 SINGLE RESIDENTIAL STRUCTURES, CONTAINING MULTIFAMILY DWELLING UNITS

- Such structures shall contain a lot area of not less than two thousand five hundred (2,500) square feet for each dwelling. A minimum lot width of not less than one hundred (100) feet shall be required. Each sideyard shall have setback of not less than fifteen feet.

802.25 TOWER (as defined in Article 2)

The requirements set forth in this Section shall govern the location and construction of all towers and the installation of all antennae governed by this Ordinance:

- A. Building Code Safety Standards
 - 1. To ensure the structural integrity of communication towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. Tower owners shall conduct periodic inspections of communication towers at least once every two years to ensure structural integrity. Inspections shall be conducted by a structural engineer licensed to practice in Pennsylvania. The results of such inspection shall be provided to the municipality.
 - 2. In the case of a freestanding communication tower structure, the applicant shall submit certification from a registered engineer that the tower structure and its method of installation have been designed by a registered

to withstand wind and other loads in accordance with accepted engineering practice.

3. In the case of a proposed mounting of antennae on an alternative tower structure rather than the construction of a freestanding tower structure, the applicant shall submit certification from a structural engineer that the structural capacity of an existing building or structure on which an antenna is proposed to be mounted is adequate to withstand wind and other loads associated with the antenna's location.
4. The applicant shall demonstrate that the proposed antenna and any tower structure are safe and that surrounding areas will not be negatively affected by tower structure failure, falling ice or other debris, electromagnetic fields or radio frequency interference.
5. All guy wires and all guyed towers shall be clearly marked so as to be visible at all times.

B. Regulatory Compliance/Other Compliance

1. All towers and antennas must meet or exceed current standards and regulations of the FAA, including but not limited to standards for marking and lighting requirements of obstructions to air navigation as set forth within the most recent addition of advisory circular AC 70/7460-1H, the FCC, and all applicable standards of the American National Standards Institute, ANSI/EIA-222-E Manual, and any other agency of the state or federal government with the authority to regulate communication towers and antennae. If such standards and regulations are changed then the owners of the communications towers and antennae governed by this Ordinance shall bring such communications towers and antennae into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling state or federal agency.
2. Tower owners shall provide documentation showing that each communication tower is in compliance with all federal and state requirements. Evidence of compliance must be submitted every 12 months.
3. All applicants and owners must comply with all applicable county or local subdivisions and land development Ordinances and regulations.

ARTICLE 9
NONCONFORMING LOTS, USES, STRUCTURES AND BUILDINGS

SECTION 901 INTENT

Within the zoning districts established by this Ordinance or subsequent amendments thereto, there may exist or will exist certain nonconforming uses of structures and/or land which if lawful before this Ordinance was passed or amended, may be continued, subject to certain limitations, although such uses would be prohibited, regulated or restricted under the terms and provisions of this Ordinance or subsequent amendments thereto.

SECTION 902 NONCONFORMING LOTS OF RECORD

In any zoning district, structures, both principal and accessory, maybe erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions or regulations of this Ordinance, even though such lots fail to meet the requirements for the area and/or width of the zoning district in which such lot is located. The erection of a structure on such a lot shall, however, conform to front, rear and side yard requirements for the zoning district in which such lot is located. Variances from the aforementioned yard requirements may be obtained only through action of the Zoning Hearing Board.

If two (2) or more adjacent lots, with continuous frontage, in single ownership, are lots of record at the effective date of the adoption or amendment of this Ordinance, and if such lots do not meet the required lot area and/or width requirements, such lots shall be considered to be an undivided parcel and no portions of such parcel shall be used or sold in a manner which further diminishes compliance with the required lot area and/or width requirement for the zoning district in which such lots are located.

SECTION 903 CONTINUATION OF NONCONFORMITY

Any lawful nonconforming use and/or nonconforming structure may be continued except as otherwise provided in this Article, but any nonconforming use and/or structure shall not be enlarged, reconstructed, structurally altered or changed except as permitted by provisions of this Article.

SECTION 904 REGISTRATION OF NONCONFORMING USES AND STRUCTURES

The Zoning Officer may prepare and maintain an accurate listing of all nonconforming uses and structures. The Zoning Officer or the property owner may initiate the process of certifying the nonconformity of a given property. The Zoning Officer shall issue a Certificate of Nonconformity where he finds the use or structure, although not in compliance with all applicable requirements of the zoning district in which it is located, to be a lawful nonconforming use or structure.

SECTION 905

CHANGES OF NONCONFORMING USES

The Zoning Hearing Board may grant a special exception to allow one (1) nonconforming use to be changed to another nonconforming use, if the Board finds that all of the following provisions will be met:

- A. No structural alterations are made.
- B. The proposed change shall be less objectionable in external effects than that of the previous or existing nonconforming use, and shall be more consistent with its physical surrounding.
- C. There shall be no increase in traffic generation or congestion, including both vehicular and pedestrian traffic.
- D. There shall be no increase in the danger of fire or explosion.
- E. There shall be no increase in noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, vibration, lighting or electrical disturbances.
- F. There shall be no increased threat to health by any reason, including that of rodent, vermin or otherwise.

SECTION 906

ENLARGEMENT OF NONCONFORMING USES AND STRUCTURES

The Zoning Hearing Board may grant a special exception for the enlargement of a nonconforming use and/or structure, if the Board finds the following standards will be met:

- A. The enlargement will not replace a conforming use.
- B. The nonconforming structure and/or use, after enlargement, shall comply with the yard and lot coverage requirements applicable to the zoning district in which it is located.
- C. The use and/or structure, after enlargement, shall comply with all applicable off-street parking and/or loading requirements for said use and/or structure.
- D. Not more than one (1) enlargement of a nonconforming use and/or structure shall be permitted.
- E. A nonconforming structure and/or use shall not be enlarged beyond the limits of the zoning lot on which it is located. Expansion to an adjoining lot shall be prohibited, even if such adjoining lot was in the same ownership at the effective date of the adoption of this Ordinance.

- F. The enlargement shall not exceed twenty-five (25%) percent of the gross floor area or land area as it existed at the time the structure or use first became nonconforming.

SECTION 907 RESTORATION OF USE

A nonconforming use and/or structure which has been damaged or destroyed by fire, explosion, windstorm, flood or other similar act or cause to the extent of more than sixty (60%) percent of its reproduction value at the time of the damage shall not be restored except in conformity with the regulations of the zoning district in which it is located.

When damage is less than sixty (60%) percent of its reproduction value, a nonconforming building or other structure may be repaired or reconstructed and used as before the time of the damage, provided such repairs or reconstruction are completed within one (1) year of the date of such damage.

A conforming residential use, which is constructed on a lot that is nonconforming with respect to lot area, lot width, and/or yard areas, may be reconstructed on the same lot subject to receiving approval from the Zoning Hearing Board for any necessary variances.

SECTION 908 TERMINATION OF NONCONFORMING USE AND/OR STRUCTURE

908.1 NONCONFORMING USE AND/OR STRUCTURE

A nonconforming use and/or structure shall not be reconstructed when damaged to an extent greater than sixty (60%) percent of its reproduction value at the time of the damage and said nonconforming use and/or structure shall be deemed terminated.

908.2 CHANGE OF NONCONFORMING USE

Where a nonconforming use is changed into a conforming use, a nonconforming use shall not thereafter be resumed. A change of one (1) nonconforming use, without approval by the Zoning Hearing Board, shall be considered an abandonment of the prior nonconforming use, which shall not thereafter be resumed.

908.3 ABANDONMENT OF NONCONFORMING USE

The right to a nonconforming use shall be terminated and a nonconforming use shall not be resumed if a nonconforming use is abandoned. A nonconforming use shall be deemed abandoned, if it is changed as set forth in Section 908.2 of this Ordinance or if it is discontinued for a continuous period of one (1) year and the owner of said property fails to obtain a Certificate of Intention in accordance with Section 909 of this Ordinance which indicates his or her intent to resume the nonconforming use.

908.4 NONCONFORMING MOBILE HOMES

The removal of a mobile home as a nonconforming use upon a property with the intent to replace it with another mobile home may be permitted in accordance with the following standards:

1. The property owner shall provide the Zoning Officer with written notice of his intent to replace the structure and the date on which the current mobile home will be removed from the lot.
2. The placement of the new mobile home upon the lot shall be in conformance with all applicable setback requirements and area requirements for zoning district in which it is located.
3. A new mobile home shall be located upon the lot and connected with all utilities, including sewage, and ready for occupancy within one hundred and eighty (180) days from the date on previous mobile home was removed.

The removal of a mobile home as a conforming use upon a property with the intent to replace it with another mobile home shall be in conformance with all applicable setback requirements and area requirements for zoning district in which it is located.

908.5 UNSAFE STRUCTURES

If a nonconforming structure, containing a nonconforming use, becomes physically unsafe due to lack of maintenance or repairs and has been legally condemned, it shall not thereafter be restored, repaired or rebuilt except in conformity with uses permitted within the zoning district in which such structure is located.

SECTION 909 CERTIFICATE OF INTENTION FOR A NONCONFORMING USE

A Certificate of Intention shall be required in any instance when a nonconforming use of a structure, building and/or land is to be discontinued for a period of more than one (1) year and the owner or operator of the nonconforming use wishes to maintain a legal nonconforming status. A Certificate of Intention form shall be completed by the owner or operator of the discontinued nonconforming use. Said completed Certificate of Intention form shall be submitted to and approved by the Zoning Officer. The applicant shall indicate in writing the reason or basis for the discontinuation of the nonconforming use and the anticipated date on which the nonconforming use will resume.

A Certificate of Intention, as issued and approved by the Zoning Officer, shall be valid for a period for a period of one year from the date of issuance. A Certificate of Intention may be renewed annually by the owner or operator of the nonconforming use. Failure to renew a Certificate of Intention shall constitute a deemed abandonment of the use and forfeiture of the legal nonconforming use status of the property.

<p style="text-align: center;">ARTICLE 10 SIGN REGULATIONS</p>
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SECTION 1001 SIGNS

1001.1 TYPE AND USE OF SIGNS

All signs shall be classified according to type and use as provided herein:

- A. IDENTIFICATION SIGN: A sign which communicates the name and/or address of an occupant or a permitted home occupation upon the zoning lot on which the sign is located.
- B. BUSINESS SIGN: A sign which communicates information concerning a business, profession, commodity, service, entertainment or development which is sold, offered, prepared, manufactured or conducted upon the zoning lot where the sign is located.
- C. BILLBOARD OR OFF PREMISE ADVERTISING SIGN: A sign which communicates information concerning a subject, business, profession, activity, commodity, service, entertainment or development not related to, sold, offered, prepared or manufactured on the zoning lot where the sign is located.
- D. REAL ESTATE SIGN: A temporary sign, having an area not greater than eight (8) square feet in area which advertises the sale, rental or development of the premises upon which the sign is located.
- E. CONSTRUCTION SIGN: A temporary sign erected on the premises on which construction is taking place, indicating the names of the firm or firms performing the construction activities, including names of any architectural firms and engineering firm associated with the project.
- F. SUBDIVISION/DEVELOPMENT SIGN: A temporary real estate sign, not greater than sixty (60) square feet in area, which advertises the sale of property within an approved subdivision or planned residential development.
- G. INSTITUTIONAL SIGN: A sign which identifies a use pertaining to a school, church, hospital or other institution of a similar public or semipublic nature.
- H. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN: A sign commonly associated with, and limited to, information and directions necessary for visitors entering or exiting a property, including signs marking entrance and exits, parking areas, circulation direction, restrooms and pick-up and delivery areas. Such signs shall contain no advertising material.

SECTION 1002 CONSTRUCTION TYPES

All signs shall be classified according to construction types as provided herein:

- A. FREESTANDING SIGN: A sign not attached or applied to a principal building but supported by another structure, including structures designed for the sign itself and accessory structures.
- B. WALL SIGN: A sign attached, painted or affixed to the wall of a principal structure or accessory structure, not projecting over any public right-of-way and not extending more than two (2') feet from the building or structure.
- C. PROJECTING SIGN: A sign which projects outward or extends more than two (2') feet from the building or structure.

SECTION 1003 PERMITTED SIGNS BY ZONING DISTRICT

The establishment, erection or reconstruction of any sign shall be in accordance with the regulations as set forth herein:

- A. IDENTIFICATION SIGN: Such signs shall be permitted in all zoning districts.
- B. BUSINESS SIGNS: Such signs shall be permitted in B-1, B-2, M-1 Zoning Districts.
- C. REAL ESTATE SIGNS: Such signs shall be permitted in all zoning districts.
- D. SUBDIVISION/DEVELOPMENT SIGNS: Such signs shall be permitted in all zoning districts.
- E. INSTITUTIONAL SIGNS: Such signs shall be permitted in all zoning districts.
- F. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN: Such signs shall be permitted in all zoning districts.
- G. BILLBOARD SIGNS: Such signs shall be permitted in an M-1 zoning district.

SECTION 1004 AREA, HEIGHT AND SETBACK REQUIREMENTS

The establishment, erection or reconstruction of permitted signs shall be governed by the following regulations:

- A. IDENTIFICATION SIGN: An identification sign shall not exceed two (2) square feet in area. Such a sign shall be setback not less than ten (10') feet from the front lot line. The maximum height of an identification sign, if free standing, shall not exceed ten (10') feet in height, or if attached to a building shall not be higher than the first story of the building to which it is attached.

- B. BUSINESS SIGN: A business sign within the following Zoning Districts shall not exceed the areas noted below:

B-2 District - Sixty-four (64) square feet

B-1 District - Twenty (20) square feet

M-1 District - One Hundred (100) square feet

In an integrated grouping of commercial or industrial uses which is classified as a "Land Development", in addition to permitting each individual business establishment to display a business sign, one (1) sign shall be permitted on the lot, which indicates the name of the integrated grouping of commercial or industrial uses and/or the names of the business establishments located therein. Only one (1) such sign shall be permitted on the lot and such sign shall not exceed two hundred (200) square feet in area.

The maximum height of any business sign shall not exceed fifteen (15') feet.

- C. REAL ESTATE SIGN: A temporary real estate sign shall not exceed eight (8) square feet in area and shall be located on the same lot on which the property is offered for sale or rental. The sign shall be setback not less than ten (10') feet from the front lot line and shall be removed from the premises within thirty (30) days after the sale or rental of the property.
- D. SUBDIVISION/DEVELOPMENT SIGN: A subdivision/development sign shall be considered a temporary real estate sign and shall not exceed sixty (60) square feet in area. The sign shall be located on the same property on which lots and/or homes in the subdivision are offered for sale. Not more than one (1) sign shall be erected in any subdivision, and such signs shall be setback not less than thirty-five (35') feet from the front lot line. The sign shall be removed from the premises within thirty (30) days after the last lot and/or home is sold.
- E. CONSTRUCTION SIGN: A construction sign shall not exceed twenty (20) square feet in area and shall be located upon the same property on which the construction activity is being conducted. An individual sign for each firm performing work upon the property shall be permitted. No sign shall be located within a public right-of-way or less than ten (10) feet from any public right-of-way. All construction signs shall be temporary in nature and removed within thirty (30) days following the completion of construction activity.
- F. INSTITUTIONAL SIGN: An institutional sign for public and semipublic facilities, such as schools, churches, hospitals, libraries, colleges or other institutions of a similar nature shall not exceed thirty (30) square feet in area. The maximum height of such signs shall not exceed the maximum height restriction established for a principal structure in the district in which the sign is located. An institutional sign shall be not less than ten (10') feet from the front lot line.

- G. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN: An on-site directional and/or informational sign shall not exceed six (6) square feet in area. A front, rear or side yard setback of not less than five (5') feet shall be required for such signs. The maximum height of such signs shall not exceed six (6') feet.
- H. BILLBOARD SIGN OR OFF PREMISE ADVERTISING SIGN: The following regulations shall apply to any billboard and/or off-premise advertising sign. The advertising surface area of any panel shall not exceed 300 square feet and not more than one double-faced panel shall be permitted on the same structure or standard.

Such a sign shall not be located within 200 feet of any residential structure or residential zoning district.

There shall be a minimum spacing distance of 1,000 feet between all such signs.

Such signs shall not be attached to a building nor shall such signs be permitted to project above the maximum height limitation for the zoning district in which it is located.

SECTION 1005 NUMBER OF SIGNS

Excluding on-site directional and/or informational signs, not more than two (2) signs shall be permitted on any property located in any zoning district. In the case of a property located upon a corner lot, a total of three (3) signs may be permitted.

SECTION 1006 SETBACK FOR FREESTANDING SIGNS

The minimum side yard setback and rear yard setback for any freestanding sign shall be the same as the minimum side yard or rear yard setback for a principal structure in the zoning district in which the sign is located. The minimum front yard setback, with the exception of Section 1004 (F), On-Site Directional and/or Informational Sign and Section 1004 (G), Billboard Sign or Off-Premise Advertising Sign shall be not less than twenty (25%) percent of the required setback for a principal structure in the zoning district in which the sign is located. If an existing building has a front yard setback which is less than ten (10) feet, any proposed new sign shall be attached flat against the building as a wall sign.

SECTION 1007 SIGNS RELATED TO NONCONFORMING USES

An existing sign related to a legally established nonconforming use shall be considered a nonconforming sign, which may be continued at its present dimensions and location, but shall not be enlarged. Where a nonconforming use is lawfully changed to another nonconforming use, a new sign shall be permitted being the same type and size as the previous sign. The new sign shall be erected on the property at the same location as the previous sign. The sign may be erected at a different location provided it meets all applicable regulations for the zoning district in which it is located.

SECTION 1008 AREA COMPUTATION OF SIGNS

The area of a sign shall be construed to include all lettering, wording and accompanying design and symbols, together with the background including border and trim, whether open or enclosed on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself. Computation of the area for particular signs shall be in accordance with the following regulations:

- A. WALL SIGN: For a sign painted upon or applied to a building, the area shall be considered to include all lettering, wording and accompanying design or symbols together with any backing associated with the sign.
- B. SEPARATE SYMBOLS: Where the sign consists of individual letters or symbols attached to or painted on a surface; building, wall or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.
- C. DOUBLE-FACE SIGN: With the exception of a billboard, when computing the area of a double-face sign, only one (1) sign shall be considered, provided both faces are identical.
- D. CYLINDRICAL SIGN: The area of a cylindrical sign shall be computed by multiplying one-half (.5) of the circumference by the height of the sign.

SECTION 1009 VERTICAL CLEARANCE

A freestanding sign and a projecting sign shall have a vertical distance of not less than nine (9) feet as measured from the lowest edge or point of the sign to the highest ground elevation located beneath the sign.

SECTION 1010 PROHIBITED SIGNS

The following types of signs shall not be permitted in any zoning district:

- A. Signs which are located in such a position which endangers vehicular and/or pedestrian traffic by obscuring the site distance.
- B. Signs which by design and/or location may be confused with traffic signs or signals.
- C. Any sign located in or extending into a public right-of-way, including sidewalk areas, excluding an official street sign or traffic control sign.
- D. Any freestanding or projecting sign within an area bounded by the intersection of two (2) public or private streets, for a distance of twenty (20') feet along the centerline of the right-of-way of such streets from the point of their intersection.

- E. Freestanding or projecting signs over any type of public right-of-way, including sidewalk areas.
- F. Sequential, flashing or oscillating signs.
- G. Signs which due to their construction and/or location would constitute a hazard or a potential danger to the community.

SECTION 1011 PERMITS REQUIRED

A zoning permit shall be required for the erection, alteration or relocation of any sign, excluding real estate signs and construction signs shall be exempt from securing a zoning permit.

ARTICLE 11
OFF-STREET PARKING AND LOADING

SECTION 1101 PURPOSE

Off-street parking, loading and unloading facilities shall be provided to lessen traffic congestion in the streets. The facilities required by these provisions shall be available throughout the hours of operation for the particular business or use for which such facilities are provided. As uses herein, the term "parking space" includes covered garage or carport or uncovered parking lot space located off the public right-of-way.

SECTION 1102 SIZE OF OFF-STREET PARKING SPACES

Each off-street parking space shall have an area of not less than one hundred and sixty-two (162) square feet, being nine (9') feet in width and eighteen (18') feet in length, exclusive of access drives or aisles.

SECTION 1103 SIZE OF OFF-STREET LOADING SPACES

Each off-street loading space shall be not less than fifty (50') feet in depth, twelve (12') feet in width and provide an overhead clearance of not less than fourteen (14') feet. All loading areas shall be designed, constructed and used so that all vehicular maneuvering is contained within the lot and no vehicle shall be permitted to back into or out of the public right-of-way.

SECTION 1104 DIMENSIONS AND DESIGN:

The dimension and design of off-street parking areas, including garages, shall comply with the following:

- A. Stall width shall be at least nine (9) feet.
- B. Stall depth shall be at least eighteen (18) feet for angle parking and twenty (20) feet for parallel parking.
- C. The minimum width of aisles providing access to stalls, with one-way traffic, varying with the angle of parking, shall be:

<u>Angle of Parking</u>	<u>Minimum Aisle Width</u>
Parallel	12 feet
30 degrees	11 feet
45 degrees	13 feet
60 degrees	18 feet
90 degrees	20 feet

- D. The minimum width for aisles providing access to stalls with two-way traffic shall

be twenty-four (24) feet.

SECTION 1105 WIDTH OF ACCESS DRIVEWAYS

The width of a driveway intended to provide access to or from a property shall comply with the following:

- A. A minimum of nine (9) feet for all single-family dwellings;
- B. A minimum of twelve (12) feet for one-way traffic for all uses other than single-family dwellings;
- C. A minimum of twenty (20) feet for two-way traffic for all uses other than single-family dwellings;
- D. A maximum of twenty (20) feet at the street lines in residential districts, and thirty (30) feet in all other districts.

SECTION 1106 NUMBER OF LOCATION OF ACCESS DRIVEWAYS

For the purpose of providing access to a property, driveways crossing a street line shall be forty (40) feet apart and shall be limited to two (2) along each front, rear or side lot line. On all corner properties, there shall be a minimum distance of thirty (30) feet from any driveway to the lot line fronting on the intersecting street.

There shall be adequate ingress or egress to all parking spaces. There shall be provided an access drive leading to off-street parking and/or loading areas. Such access drive shall not be less than ten (10') feet in width for residential uses nor greater than twenty (20') feet and not less than twenty (20') feet, nor greater than thirty (30') feet for any nonresidential use. Access drives to such off-street parking and/or loading areas shall be limited to well defined locations, not to exceed two (2) along each front, side or rear lot lines. For corner properties, all access drives shall be not less than thirty-five (35') feet from the intersection of streets, as measured along the right-of-way lines.

SECTION 1107 LOCATION OF OFF-STREET PARKING AREAS

The required off-street parking spaces for any type of use shall be located on the same lot as the principal use to which it is accessory. The required off-street parking may be permitted on another lot subject to the following requirements:

- A. The lot to be used for off-street parking and the lot on which the principal use is located shall be in the same zoning district.
- B. The lot to be used for off-street parking and the lot on which the principal use is located shall be held under the same ownership

- C. The lot to be used for off-street parking shall be not less than three hundred (300') feet to any lot line on which the principal structure is located.

SECTION 1108 EXPANSION OF EXISTING USE

When an existing use of a building, structure or land is expanded, off-street parking and/or loading facilities shall be provided in accordance with the applicable provisions of this Ordinance for the net increase of expansion based upon land area and/or gross floor area of the subject use.

SECTION 1109 CHANGE OF USE

Whenever an existing use of a building, structure or land is changed to a different use, the required off-street parking and/or loading facilities shall be provided in accordance with the applicable provisions of this Ordinance based upon the proposed change in use.

SECTION 1110 GRADING, PAVEMENT AND DRAINAGE OF OFF-STREET PARKING AREAS

Off-street parking areas shall be graded in a manner to preclude standing surface water and to prevent damage to abutting properties and/or streets. Off-street parking areas shall be surfaced with a pavement structure of bituminous asphalt material or concrete. The need for any catch basins, including the design, location and material of the same may be referred to the Borough Engineer for review and approval.

SECTION 1111 SCREENING

Properties which contain off-street parking for ten (10) or more vehicles and/or any amount of off-street loading, along a side yard or rear yard which abuts a residential district or residential use, shall be screened by a substantial, tight fence not less than six (6') feet in height and a planting strip not less than five (5') feet in depth, with shrubbery, plants or trees which are a minimum of three (3') feet in height at the time of planting.

SECTION 1112 LIGHTING

Any lighting used to illuminate off-street parking or loading areas shall be arranged to reflect the light and/or glare away from adjoining properties and the public right-of-way.

SECTION 1113 PARKING IN SETBACK YARD AREAS

Required parking shall be permitted within the required front or side yard setbacks, provided that the minimum setback distance to any area used for off-street parking is not less than five (5') feet to the nearest point of a side yard property line and not less than ten (10') feet from the front yard property line. Any off-street parking areas for a nonresidential use, when abutting a residential zoning district or a residential property shall be setback a minimum of ten (10') feet from the rear yard and any side yard.

SECTION 1114 EXISTING STRUCTURES AND USES

Structures and uses in existence at the date of adoption of this Ordinance shall not be subject to the off-street parking or off-street loading requirements, so long as a structure or use is not changed, altered or expanded. Existing off-street parking or off-street loading facilities provided prior to the adoption of this Ordinance shall not be reduced below the minimum required in this Ordinance.

SECTION 1115 FRACTIONAL SPACE

When required parking computation results in fractions, any fraction less than one-half (.50) shall be disregarded and any fraction equal to or greater than one-half (.50) shall be construed to require a full space.

SECTION 1116 MULTIPLE ACTIVITIES OR USES

In any instance where a nonresidential structure, building or use of land contains more than one (1) defined use, the required parking for each specific use shall be provided.

SECTION 1117 OFF-STREET PARKING REQUIREMENTS

Any structure, building or use of land hereafter erected, converted, enlarged or placed into use shall comply with the minimum off-street parking spaces as provided herein:

1. Single-family Structure: One (1) space for each dwelling unit.
2. Two-family Structure: One (1) space for each dwelling unit.
3. Multifamily Residential, (including Townhouses and Garden Apartments):
Two (2) spaces for each dwelling unit.
4. Home Occupation:
 - (a) Four (4) spaces for any medical practitioner.
 - (b) Two (2) spaces for all other home occupations.

The above requirements do not include those required for the dwelling unit.

5. Churches and Similar Places of Worship: One (1) space for every four (4) seats in the main assembly room or one (1) space for each twelve (12) feet of bench length; if fixed seating is not provided, one (1) space for every 30 square feet of gross floor area.
6. Places of Public or Private Assembly, including Auditoriums, Meeting Halls and Community Centers: One (1) space for every four (4) seats or one (1)

space for each fifty (50) square feet of floor area when there is no fixed seating.

7. Schools, Elementary and Secondary: One (1) space for each staff member, plus one (1) space for every twenty (20) classroom seats.
8. College, Commercial, Business or Vocational Trade Schools: One (1) space for each staff and/or faculty member, plus one (1) space for every five (5) classroom seats.
9. Nursery or Day Care Schools: One (1) space for each employee, plus one (1) space for every five (5) children, based upon the maximum number of children which the facility is licensed to serve.
10. Hospitals/Nursing Homes: One (1) space for every five (5) beds, plus one (1) space every two employees on the maximum working shift.
11. Medical or Dental Offices or Clinics: Six (6) spaces for every doctor, dentist, chiropractor or other licensed medical practitioner.
12. Nonprofit Social Halls, Clubs and Lodges: One (1) space for every one hundred (100) square feet of gross floor area.
13. Public Uses: One (1) space for every two hundred (200) square feet of gross floor area.
14. Public Utility Facilities: Two (2) spaces per facility; if the facility includes maintenance and/or storage yards then the required number of spaces shall be one (1) for each employee assigned to work at such facility.
15. Outdoor Recreational Facilities: In cases where such facilities include spectator seating, there shall be one (1) space for every four (4) seats; facilities which do not provide any spectator seating shall provide one (1) space for every two thousand (2,000) square feet in the recreational site, plus an additional ten (10) spaces, if there is a swimming pool and an additional two (2) spaces if there is playground equipment.
16. Retail Businesses: One (1) space for every three hundred (300) square feet of gross floor area.
17. Eating and Drinking Establishments: One (1) space for every three (3) seats, plus two (2) spaces every three (3) employees based upon the maximum working shift.
18. Fast Food Restaurant: One (1) space for every eighty (80) square feet of service or dining area, with a minimum of five spaces. A fast food restaurant with a drive-in window shall, in addition to the above requirements, provide

eight (8) stacking spaces for the drive-in window designated for the ordering station. Such spaces shall be designed in a manner not to impede pedestrian or vehicular circulation on the site or on any abutting street.

19. Entertainment Facilities: Such facilities as defined in Article 2 of this Ordinance, shall require one (1) space for every two hundred (200) square feet of gross floor area.
21. Personal Services: As defined in Article 2 of this Ordinance, such establishments shall provide one (1) space for every three hundred (300) square feet of gross floor area; the following exceptions include:
22. Self-service Coin Operated Laundries and Dry Cleaners: Shall provide one (1) space for every two (2) washing or drying machines.
23. Health Clubs: Shall provide one (1) space for every two hundred (200) square feet of gross floor area; any such club which also serves food and/or beverages shall also comply with the parking requirements of any eating or drinking establishment.
24. Animal Hospital: Five (5) spaces for every veterinarian.
25. Group Residence: One (1) space for each two employees based upon the maximum working shift and one (1) space for each two residents who are eligible to operate a vehicle.
26. Funeral Homes: Twenty (20) spaces for each viewing parlor.
27. Professional Offices: One (1) space for every two hundred (200) square feet of gross floor area.
28. Motels and Hotels: One (1) space for each unit for guest accommodations plus one (1) space for each three employees on the maximum working shift. Any such facility which also serves food and/or beverages shall also comply with the parking requirements of an eating or drinking establishment.
29. Self Storage Warehouse: One (1) space for every ten (10) stalls or lockers available for rental, plus one (1) for each employee on the maximum working shift.
30. Gasoline Service Stations: Two (2) exterior spaces for each service bay, one (1) space for each pump, plus one (1) space for every two hundred (200) square feet of gross floor area which is used for the sale of retail goods, including food and/or beverages.
31. Automobile Car Washes: One (1) space for each employee on the maximum working shift.

32. Automotive Sales: One (1) exterior space for every six hundred (600) square feet of gross interior floor space plus one (1) additional space per each 5,000 square feet open sales or display area .
33. Automotive Repairs: One (1) exterior space for every two hundred (200) square feet of gross interior floor area.
34. Equipment Sales and Repairs: One (1) exterior space for every two hundred (200) square feet of gross floor space.
35. Industrial, Manufacturing, Wholesale and Warehouse Establishments, Truck Terminals, Research and Testing Facilities: One (1) space for every one thousand (1000) square feet of gross floor area; plus one (1) space for every two (2) employees on the maximum working shift; in any case, however, the total parking area shall be not less than twenty-five (25%) percent of the total gross square feet of the building.

SECTION 1118 PARKING FOR OTHER NONRESIDENTIAL USES

Any commercial use or nonresidential use of a structure, building or land, not specifically listed within Section 1117 of this Ordinance shall provide one (1) off-street parking space for every three hundred (300) square feet of gross floor area or lot area.

SECTION 1119 OFF-STREET LOADING REQUIREMENTS

All commercial and industrial establishments shall provide off-street loading, unloading and commercial vehicle storage space adequate for their needs. In no case shall a public right-of-way be used for the loading, unloading or storage of such vehicles.

SECTION 1120 PROVISION OF HANDICAPPED PARKING SPACES

Any business, individual or corporation that owns, leases or operates a facility which includes the provision of public accommodations and/or commercial facilities shall be governed by the provision of this section. A facility which provides public accommodations shall include, but may not be limited to the following:

- places of lodging
- establishments serving food or drink
- places of exhibition or entertainment
- places of public gathering
- sales or rental establishments

service establishments, stations used for specified public transportation.

places of public display or collection

places of recreation

places of education

social service center establishments, and places of exercise or recreation.

A commercial facility shall include any business whose operations are open to the general public.

SECTION 1121 DESIGN FEATURES FOR HANDICAPPED PARKING SPACES

The following provisions shall apply for required handicapped parking spaces:

1. An area not less than five (5) feet in width shall be provided between each handicapped parking space. Said area shall be marked and/or designed to prevent parking therein.
2. An area not less than eight (8) feet in width shall be provided between each van accessible parking space. Said area shall be marked and/or designed to prevent parking therein.
3. Vehicular access to handicapped parking areas shall have a minimum vertical clearance of not less than nine and one half (9.5) feet.
4. An off-street parking area shall be designed to provide accessible routes from the handicapped parking areas to an accessible building entrance and to public streets and sidewalks which adjoin the off-street parking area.
5. Signs with the international handicapped symbol shall be placed at each designated handicapped off-street parking space

Handicapped accessible spaces, serving a particular facility, shall be located on the shortest accessible route of travel from the parking area to an accessible entrance.

SECTION 1122 SIGNAGE FOR HANDICAPPED PARKING

Handicapped accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Parking spaces designed for vans shall have an additional sign reading "Van-Accessible" mounted below the accessibility sign. Such signs shall be located in a manner so they cannot be obscured by a vehicle.

SECTION 1123 MINIMUM NUMBER OF HANDICAPPED ACCESSIBLE SPACES

When parking spaces are provided for self-parking by employees or visitors, or both, within the total number of off-street parking spaces required under Section 1117 and/or Section 1118 of this Ordinance, the following table shall be used to determine the required number of handicapped accessible spaces.

<u>TOTAL NO. OF SPACES</u>	<u>REQUIRED NO. OF ACCESSIBLE SPACES</u>
1 TO 25	1
26 TO 50	2
51 TO 75	3
76 TO 100	4
101 TO 150	5
151 TO 200	6
201 TO 300	7
301 TO 400	8
401 TO 500	9
501 TO 1000	2 PERCENT OF TOTAL

BOROUGH OF WEST PITTSTON
ORDINANCE NO. 611 of 2019

AN ORDINANCE REQUIRING ALL PERSONS,
PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO
OBTAIN A PERMIT FOR ANY CONSTRUCTION OR
DEVELOPMENT; PROVIDING FOR THE ISSUANCE OF
SUCH PERMITS; SETTING FORTH CERTAIN MINIMUM
REQUIREMENTS FOR NEW CONSTRUCTION AND
DEVELOPMENT WITHIN AREAS OF THE BOROUGH OF
WEST PITTSTON WHICH ARE SUBJECT TO FLOODING;
AND ESTABLISHING PENALTIES FOR ANY PERSONS
WHO FAIL, OR REFUSE TO COMPLY WITH, THE
REQUIREMENTS OR PROVISIONS OF THIS ORDINANCE.

ARTICLE I. STATUTORY AUTHORIZATION

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the Council of the Borough of West Pittston does hereby order as follows.

ARTICLE II. GENERAL PROVISIONS

Section 2.01 Intent

The intent of this Ordinance is to:

- A. Promote the general health, welfare, and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health by protecting water supply and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
- E. Comply with federal and state floodplain management requirements.

Section 2.02 Applicability

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 of West Pittston unless a Permit has been obtained from the Floodplain Administrator.

Section 2.03 Abrogation and Greater Restrictions

This ordinance supersedes any other conflicting provisions which 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.

Section 2.04 Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

Section 2.05 Warning and Disclaimer of Liability

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

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

ARTICLE III. ADMINISTRATION

Section 3.01 Designation of the Floodplain Administrator

The West Pittston Borough Zoning/Code Enforcement Officer is hereby appointed to administer and enforce this ordinance and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may: (A) Fulfill the duties and responsibilities set forth in these regulations, (B) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or (C) Enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the West Pittston Borough EMA.

Section 3.02 Permits Required

A Permit shall be required before any construction or development is undertaken within any area of the Borough of West Pittston.

Section 3.03 Duties and Responsibilities of the Floodplain Administrator

- A. The Floodplain Administrator shall issue a Permit 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.
- B. Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
- C. In the case of existing structures, prior to the issuance of any Development/Permit, the Floodplain Administrator shall review the proposed cost of improvements or repairs and the pre-improvement market value of the structure, so that a substantial improvement/substantial damage determination can be made, in accordance with FEMA's Substantial Improvement/Substantial Damage Desk Reference.
- D. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.
- E. In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this ordinance.
- F. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the Permit and report such fact to the Council for whatever action it considers necessary.
- G. The Floodplain Administrator shall maintain in perpetuity, or for the lifetime of the structure, all records associated with the requirements of this ordinance including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.
- H. The Floodplain Administrator is the official responsible for submitting a biennial report to FEMA concerning community participation in the National Flood Insurance Program as requested.
- I. The responsibility, authority and means to implement the commitments of the Floodplain Administrator can be delegated from the person identified. However, the ultimate responsibility lies with the person identified in the floodplain ordinance as the floodplain

administrator/manager.

- J. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2009 IBC and the 2009 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.

Section 3.04 Application Procedures and Requirements

- A. Application for such a Permit shall be made, in writing, to the Floodplain Administrator on forms supplied by the Borough of West Pittston. Such application shall contain the following:

1. Name and address of applicant.
2. Name and address of owner of land on which proposed construction is to occur.
3. Name and address of contractor.
4. Site location including address.
5. Listing of other permits required.
6. Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred where appropriate.
7. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

- B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:

1. all such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
2. all utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;
3. adequate drainage is provided so as to reduce exposure to flood hazards;
4. structures will be anchored to prevent floatation, collapse, or lateral movement;
5. building materials are flood-resistant;
6. appropriate practices that minimize flood damage have been used; and

7. electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
- C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:
1. A completed Permit Application Form.
 2. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
 - a. north arrow, scale, and date;
 - b. topographic contour lines, if available;
 - c. the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;
 - d. the location of all existing streets, drives, and other access ways; and
 - e. the location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
 3. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
 - a. the proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
 - b. the elevation of the base flood;
 - c. supplemental information as may be necessary under 34 PA Code, the 2009 IBC or the 2009 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.
 4. The following data and documentation:
 - a. detailed information concerning any proposed floodproofing measures and corresponding elevations.
 - b. if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood.
 - c. documentation, certified by a registered professional engineer or

architect, to show that the effect of any proposed development within a Floodway Area (See section 4.02 A) will not increase the base flood elevation at any point.

d. documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an AE Area/District without floodway (See Section 4.02 B) when combined with all other existing and anticipated development, will not increase the base flood elevation more than one (1) foot at any point within the community.

e. a document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood.

Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.

f. detailed information needed to determine compliance with Section 5.03 F., Storage, and Section 5.04, Development Which May Endanger Human Life, including:

i. the amount, location and purpose of any materials or substances referred to in Sections 5.03 F. and 5.04 which are intended to be used, produced, stored or otherwise maintained on site.

ii. a description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 5.04 during a base flood.

g. the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."

h. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.

i. Elevation Certificate is required.

D. Applications for Permits shall be accompanied by a fee, payable to the municipality based upon the estimated cost of the proposed construction as determined by the Floodplain Administrator.

Section 3.05 Review of Application by Others

A copy of all plans and applications for any proposed construction or development in any

identified floodplain area to be considered for approval may be submitted by the Floodplain Administrator to any other appropriate agencies and/or individuals (e.g. planning commission, municipal engineer, etc.) for review and comment.

Section 3.06 Changes

After the issuance of a Permit by the Floodplain Administrator, 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 Floodplain Administrator. Requests for any such change shall be in writing, and shall be submitted by the applicant to Floodplain Administrator for consideration.

Section 3.07 Placards

In addition to the Permit, the Floodplain Administrator shall issue a placard, or similar document, which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the Permit, the date of its issuance, and be signed by the Floodplain Administrator.

Section 3.08 Start of Construction

Work on the proposed construction or development shall begin within 180 days after the date of issuance of the development permit. Work shall also be completed within twelve (12) months after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. The issuance of development permit does not refer to the zoning approval.

The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first, alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Time extensions shall be granted only if a written request is submitted by the applicant, who sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request and the original permit is compliant with the ordinance & FIRM/FIS in effect at the time the extension is granted.

Section 3.09 Enforcement

A. Notices

Whenever the Floodplain Administrator or other authorized municipal representative

determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Ordinance, or of any regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

1. be in writing;
2. include a statement of the reasons for its issuance;
3. allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires;
4. be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this State;
5. contain an outline of remedial actions which, if taken, will effect compliance with the provisions of this Ordinance.

B. Penalties

Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or who fails or refuses to comply with any notice, order of direction of the Floodplain Administrator or any other authorized employee of the municipality shall be guilty of a summary offense and upon conviction shall pay a fine to Borough of West Pittston, of not less than Twenty-five Dollars (\$25.00) nor more than Six Hundred Dollars (\$600.00) plus costs of prosecution. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with this Ordinance shall not excuse the violation or noncompliance or permit it to continue. All such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Ordinance may be declared by the Council to be a public nuisance and abatable as such.

Section 3.10 Appeals

- A. Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this Ordinance, may appeal to the Zoning Hearing Board. Such appeal must be filed, in writing, within thirty (30) days after the decision, determination or action of the Floodplain Administrator.
- B. Upon receipt of such appeal the Zoning Hearing Board shall consider the appeal in accordance with the Municipalities Planning Code and any other local ordinance.

- C. Any person aggrieved by any decision of the Zoning Hearing Board may seek relief therefrom by appeal to court, as provided by the laws of this State including the Pennsylvania Flood Plain Management Act.

ARTICLE IV. IDENTIFICATION OF FLOODPLAIN AREAS

Section 4.01 Identification

The identified floodplain area shall be:

- A. any areas of Borough of West Pittston, classified as Special Flood Hazard Areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated November 2, 2012 and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.
- B. The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by Borough of West Pittston and declared to be a part of this ordinance.

Section 4.02 Description and Special Requirements of Identified Floodplain Areas

The identified floodplain area shall consist of the following specific areas:

- A. The Floodway Area shall be those areas identified in the FIS and the FIRM as floodway and which represent the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation by more than one (1) foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those Special Flood Hazard Areas where no floodway has been identified in the FIS and FIRM.
 - 1. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - 2. Within any floodway area, no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- B. The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided.
 - 1. The AE Area adjacent to the floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood

elevations have been provided and a floodway has been delineated.

2. AE Area without floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no floodway has been determined.
 - i. No permit shall be granted within any AE Zone without floodway, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed development together with all other existing and anticipated development, would not result in an increase in flood levels of more than one foot within the entire community during the occurrence of the base flood discharge.
 - ii. No new construction or development, with the exception of public infrastructure, shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.

- C. The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State, or other acceptable sources shall be used when available. Where other acceptable information is not available, the base flood 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.

In lieu of the above, the municipality 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 municipality. In the absence of any of the above data or documentation, the community may require elevation of the lowest floor to be at least three feet above the highest adjacent grade.

- D. The AO and AH Area/ District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1-percent-annual-chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.

Section 4.03 Changes in Identification of Area

The Identified Floodplain Area may be revised or modified by the Council where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the Special Flood Hazard Area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify FEMA of the changes to the Special Flood Hazard Area by submitting technical or scientific data. See 5.01 (B) for situations where FEMA notification is required.

Section 4.04 Boundary Disputes

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Borough of West Pittston and any party aggrieved by this decision or determination may appeal to the Council. The burden of proof shall be on the appellant.

Section 4.05 Jurisdictional Boundary Changes

Prior to development occurring in areas where annexation or other corporate boundary changes are proposed or have occurred, the community shall review flood hazard data affecting the lands subject to boundary changes. The community shall adopt and enforce floodplain regulations in areas subject to annexation or corporate boundary changes which meet or exceed those in CFR 44 60.3.

ARTICLE V. TECHNICAL PROVISIONS

Section 5.01 General

A. Alteration or Relocation of Watercourse

1. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have first been obtained from the Department of Environmental Protection Regional Office.
2. No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.
3. In addition, FEMA and the Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.

B. When Borough of West Pittston proposes to permit the following encroachments:

- any development that causes a rise in the base flood elevations within the floodway;
or
- any development occurring in Zones A1-30 and Zone AE without a designated

floodway, which will cause a rise of more than one foot in the base flood elevation; or

- alteration or relocation of a stream (including but not limited to installing culverts and bridges)

the applicant shall (as per 44 CFR Part 65.12):

1. apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.
 2. Upon receipt of the FEMA Administrator's conditional approval of map change and prior to approving the proposed encroachments, a community shall provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased base flood elevations and / or revised floodway reflecting the post-project condition.
 3. Upon completion of the proposed encroachments, a (Borough of West Pittston or applicant) shall provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR Part 67.
- C. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this Ordinance and any other applicable codes, ordinances and regulations.
- D. Within any Identified Floodplain Area, no new construction or development, with the exception of public infrastructure, shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse .

Section 5.02 Elevation and Floodproofing Requirements

A. Residential Structures

1. In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation.
2. In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation determined in accordance with Section 4.02.C of this ordinance.
3. In AO Zones, any new construction or substantial improvement shall have the lowest floor (including basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.
4. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code

(IRC) or the latest edition thereof adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.

B. Non-residential Structures

1. In AE, A1-30 and AH Zones, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation, or be designed and constructed so that the space enclosed below the Regulatory Flood Elevation:
 - a. is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and,
 - b. has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:
2. In A Zones, where no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the Regulatory Flood Elevation determined in accordance with Section 4.02.C of this ordinance.
3. In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.
4. Any non-residential structure, or part thereof, made watertight below the Regulatory Flood Elevation shall be floodproofed in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards. There should be a statement submitted with the permit application and a statement submitted with the as-built Floodproofing Certificate prior to the issuance of the Certificate of Occupancy.
5. Any non-residential structure that will be floodproofed must submit the following to the Floodplain Administrator along with the non-residential Floodproofing Certificate and prior to the issuance of the Certificate of Occupancy:
 - a. An Inspection and Maintenance Plan detailing the annual maintenance of floodproofed components ensuring that all components will operate properly under flood conditions. Components that must be inspected include at a minimum:
 1. Mechanical equipment such as sump pumps and generators,

2. Flood shields and closures,
3. Walls and wall penetrations, and
4. Levees and berms (as applicable)

b. Flood Emergency Operation Plan detailing the procedures to be followed during a flooding event, and must include information pertaining to how all components will operate properly under all conditions, including power failures. The design professional must produce the plan. An adequate plan must include the following:

1. An established chain of command and responsibility with leadership responsibilities clearly defined for all aspects of the plan.
 2. A procedure for notification of necessary parties when flooding threatens and flood warnings are issued. Personnel required to be at the building should have a planned and safe means of ingress and should have no other emergency response duties during a flood event. Alternates should be assigned in the event that the primary persons responsible are unable to complete their assigned duties under the plan.
 3. A list of specific duties assigned to ensure that all responsibilities are addressed expeditiously. The locations of materials necessary to properly install all floodproofing components must be included in the list.
 4. An evacuation plan for all personnel or occupants; those without duties for the flood emergency as well as those with duties for implementing the plan. All possible ingress and egress routes must be identified.
 5. A periodic training and exercise program to keep personnel and occupants aware of their duties and responsibilities. Training drills should be held at least once a year and should be coordinated with community officials.
6. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the latest revision thereof as adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.

C. Space below the lowest floor

1. Fully enclosed space below the lowest floor (excluding basements) which will be

used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.

2. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - a. a minimum of two openings having a net total area of not less than one
(1) square inch for every square foot of enclosed space installed on two
(2) separate walls
 - b. the bottom of all openings shall be no higher than one (1) foot above grade.
 - c. openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

D. Historic Structures

Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this ordinance, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

E. Accessory structures

Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:

1. the structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
2. floor area shall not exceed 200 square feet.
3. The structure will have a low damage potential.
4. the structure will be located on the site so as to cause the least obstruction to the flow of flood waters.

5. power lines, wiring, and outlets will be elevated to the Regulatory Flood Elevation.
6. permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
7. sanitary facilities are prohibited.
8. the structure shall be adequately anchored to prevent flotation, collapse, and lateral movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
 - b. the bottom of all openings shall be no higher than one (1) foot above grade.
 - c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
9. For accessory structures that are 200 square feet or larger in area (footprint) and that are below the base flood elevation, a variance is required as set forth in Article VIII. If a variance is granted, a signed Declaration of Land Restriction (Nonconversion Agreement) shall be recorded on the property deed prior to issuance of the Certificate of Occupancy. No variances shall be granted for a proposed accessory structure that exceeds 600 square feet in size. A signed Non-Conversion Agreement is required as a condition of receiving the variance.
10. Prohibit the storage of Hazardous Materials in accessory structures.

Section 5.03 Design and Construction Standards

The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

A. Fill

If fill is used, it shall:

- a. extend laterally at least fifteen (15) feet beyond the building line from all points;

- b. consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;
- c. be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
- d. be no steeper than one (1) vertical to two (2) horizontal feet unless substantiated data justifying steeper slopes are submitted to, and approved by the Floodplain Administrator; and
- e. be used to the extent to which it does not adversely affect adjacent properties.

B. Drainage Facilities

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall ensure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

C. Water and Sanitary Sewer Facilities and Systems

- 1. All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.
- 2. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
- 3. On-lot sewage disposal systems, including the encroachment of such a system within fifty (50) feet of wetlands shall be prohibited within any identified floodplain.
- 4. The design and construction provisions of the UCC and FEMA #348, "Protecting Building Utilities From Flood Damages" and "The International Private Sewage Disposal Code" shall be utilized.

D. Other Utilities

All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

E. Streets

The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.

F. Storage

All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 5.04, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation or floodproofed to the maximum extent possible.

G. Placement of Buildings and Structures

All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.

H. Anchoring

1. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
2. All air ducts, large pipes, storage tanks, and other similar objects or components located below the Regulatory Flood Elevation shall be securely anchored or affixed to prevent flotation.

I. Floors, Walls and Ceilings

1. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
2. Plywood used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
3. Walls and ceilings at or below the Regulatory Flood Elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.
4. Windows, doors, and other components at or below the Regulatory Flood Elevation shall be made of metal or other "water-resistant" material.

J. Paints and Adhesives

1. Paints and other finishes used at or below the Regulatory Flood Elevation shall be of "marine" or "water-resistant" quality.
2. Adhesives used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
3. All wooden components (doors, trim, cabinets, etc.) used at or below the Regulatory Flood Elevation shall be finished with a "marine" or "water-resistant" paint or other finishing material.

K. Electrical Components

1. Electrical distribution panels shall be at least three (3) feet above the base flood elevation.
2. Separate electrical circuits shall serve lower levels and shall be dropped from above.

L. Equipment

1. Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation and shall be anchored to resist floatation, collapse, and lateral movement
2. Ductwork shall be elevated to or above the Regulatory Flood Elevation or floodproofed to remain water resistant.

M. Fuel Supply Systems

All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

N. Uniform Construction Code Coordination

The Standards and Specifications contained in 34 PA Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the above and other sections and sub-sections of this ordinance, to the extent that they are more restrictive and supplement the requirements of this ordinance.

International Building Code (IBC) 2009 or the latest revision thereof as adopted by the Commonwealth of Pennsylvania:

Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

International Residential Building Code (IRC) 2009 or the latest revision thereof as adopted by the Commonwealth of Pennsylvania:

Secs. R104, R105, R109, R322, Appendix E, and Appendix J.

Section 5.04 Development Which May Endanger Human Life

- A. In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which:

1. will be used for the production or storage of any of the following dangerous materials or substances; or,

2. will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,

shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:

- 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.

- B. Any new or substantially improved structure which will involve the production, storage, or use of any amount of radioactive substances, Polychlorinated Biphenyl, and Dioxin shall be prohibited. No variance shall be granted.
- C. Within any Identified Floodplain Area, any new or substantially improved structure of the kind described in Subsection A., above, shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- D. Within any Floodway Area, any structure of the kind described in Subsection A., above, shall be prohibited. Where permitted within any Identified Floodplain Area, any new or substantially improved residential structure of the kind described in Section 5.04 (A), above, shall be elevated to remain completely dry up to at least one and one half (1 ½) feet above base flood elevation and built in accordance with Sections 5.01, 5.02 and 5.03.
- E. Where permitted within any Identified Floodplain Area, any new or substantially improved non-residential structure of the kind described in Section 5.04 (A) above, shall be built in accordance with Sections 5.01, 5.02 and 5.03 including:
 1. elevated, or designed and constructed to remain completely dry up to at least one

and one half (1 ½) feet above base flood elevation, and

2. designed to prevent pollution from the structure or activity during the course of a base flood.

Any such structure, or part thereof, that will be built below the Regulatory Flood Elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.

Section 5.05 Special Requirements for Subdivisions and Development

All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in Identified Floodplain Areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision (CLOMR) and Letter of Map Revision (LOMR). Submittal requirements and processing fees shall be the responsibility of the applicant.

Section 5.06 Special Requirements for Manufactured Homes

- A. Within any Floodway Area/District, manufactured homes shall be prohibited.
- B. Within any Identified Floodplain Area manufactured homes shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- C. Where permitted within any Identified Floodplain Area, all manufactured homes, and any improvements thereto, shall be:
 1. placed on a permanent foundation;
 2. elevated so that the lowest floor of the manufactured home is at least one and one half (1 ½) feet above base flood elevation;
 3. and anchored to resist flotation, collapse, or lateral movement.
- D. Equipment requirement:
 1. Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation and shall be anchored to resist flotation, collapse, and lateral improvement.
 2. Ductwork shall be elevated to or above the Regulatory Flood Elevation or floodproofed to remain water resistant.
- E. Installation of manufactured homes shall be done in accordance with the manufacturers'

installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2009 "International Residential Building Code" or the "U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing," 1984 Edition, draft or latest revision thereto and 34 PA Code Chapter 401-405 shall apply.

- F. Consideration shall be given to the installation requirements of the 2009 IBC, and the 2009 IRC or the latest revision thereto as adopted by the Commonwealth of Pennsylvania, and 34 PA Code, as amended where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the proposed unit(s) installation.

Section 5.07 Special Requirements for Recreational Vehicles

- A. Recreational vehicles in Zones A, A1-30, AH and AE must either:
1. be on the site for fewer than 180 consecutive days, and
 2. be fully licensed and ready for highway use,

ARTICLE VI. PROHIBITED ACTIVITIES

Section 6.01 General

In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any Identified Floodplain Area:

- 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:
1. Hospitals
 2. Nursing homes
 3. Jails or prisons
- B. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

ARTICLE VII EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

Section 7.01 Existing Structures

The provisions of this Ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure,

the provisions of Section 7.02 shall apply.

Section 7.02 Improvements

The following provisions shall apply whenever any improvement is made to an existing structure located within any Identified Floodplain Area:

- A. No expansion or enlargement of an existing structure shall be allowed within any Floodway Area/District that would cause any increase in BFE.
- B. No expansion or enlargement of an existing structure shall be allowed within AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.
- C. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.
- D. The above activity shall also address the requirements of the 34 PA Code, as amended and the 2009 IBC and the 2009 IRC or most recent revision thereof as adopted by the Commonwealth of Pennsylvania.
- E. Within any Floodway Area/District (See Section 4.02 A), no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office
- F. Within any AE Area/District without Floodway (See Section 4.02 B), no new construction or development, with the exception of public infrastructure, shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.

ARTICLE VIII VARIANCES

Section 8.01 General

If compliance with any of the requirements of this Ordinance would result in an exceptional hardship to a prospective builder, developer or landowner, the Borough of West Pittston Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements.

Section 8.02 Variance Procedures and Conditions

Requests for variances shall be considered by the Borough of West Pittston Zoning Hearing Board in accordance with the procedures contained in Section 3.10 and the following:

- A. No variance shall be granted for any construction, development, use, or activity within

any Floodway Area/District that would cause any increase in the BFE.

- B. No variance shall be granted for any construction, development, use, or activity within any AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.
- C. No variances shall be granted for a proposed accessory structure that exceeds 600 square feet in size. A signed Non-Conversion Agreement is required as a condition of receiving the variance.
- D. Except for a possible modification of the Regulatory Flood Elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Development Which May Endanger Human Life (Section 5.04).
- E. No variance shall be granted for Prohibited Activities (Article VI).
- F. If granted, a variance shall involve only the least modification necessary to provide relief.
- G. In granting any variance, the Borough of West Pittston 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 Ordinance.
- H. Whenever a variance is granted, the Borough of West Pittston Zoning Hearing Board shall notify the applicant in writing that:
 - 1. The granting of the variance may result in increased premium rates for flood insurance.
 - 2. Such variances may increase the risks to life and property.
- I. In reviewing any request for a variance, the Borough of West Pittston 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
 - a. neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense,
 - b. nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
- J. A complete record of all variance requests and related actions shall be maintained by the Borough of West Pittston. In addition, a report of all variances granted during the year

shall be included in the annual report to the FEMA.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-percent (1%) annual chance flood.

ARTICLE IX. DEFINITIONS

Section 9.01 General

Unless specifically defined below, words and phrases used in this Ordinance shall be interpreted so as to give this Ordinance its' most reasonable application.

Section 9.02 Specific Definitions

1. Accessory use or structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
2. Base flood - a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood" or one-percent (1%) annual chance flood).
3. Base flood discharge - the volume of water resulting from a Base Flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).
4. Base flood elevation (BFE) - the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.
5. Basement - any area of the building having its floor below ground level on all sides.
6. Building - a combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.
7. Declaration of Land Restriction (Non-Conversion Agreement) - A form signed by the property owner to agree not to convert or modify in any manner that is inconsistent with the terms of the permit and these regulations, certain enclosures below the lowest floor of elevated buildings and certain accessory structures. The form requires the owner to record it on the property deed to inform future owners of the restrictions.
8. Development - any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.
9. Existing manufactured home park or subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the

manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

10. Expansion to an existing manufactured home park or subdivision – the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
11. Flood - a temporary inundation of normally dry land areas.
12. Flood Insurance Rate Map (FIRM) - the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
13. Flood Insurance Study (FIS) - the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.
14. 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.
15. Floodproofing - any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
16. Floodway - the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
17. Highest Adjacent Grade - The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
18. Historic structures – any structure that is:
 - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - 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;
 - c. Individually listed on a state inventory of historic places in states which have been

approved by the Secretary of the Interior; or

d. Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:

i. By an approved state program as determined by the Secretary of the Interior or

ii. Directly by the Secretary of the Interior in states without approved programs.

19. Identified Floodplain Area- this term is an umbrella term that includes all of the areas within which the community has selected to enforce floodplain regulations. It will always include the area identified as the Special Flood Hazard Area on the Flood Insurance Rate Maps and Flood Insurance Study, but may include additional areas identified by the community. See Sections 4.01 and 4.02 for the specifics on what areas the community has included in the Identified Floodplain Area.

20. Lowest floor - the lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this ordinance.

21. Manufactured home - a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

22. Manufactured home park or subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

23. New construction - structures for which the start of construction commenced on or after the effective start date of this floodplain management ordinance and includes any subsequent improvements to such structures. Any construction started after April 15, 1977 and before the effective start date of this floodplain management ordinance is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

24. New manufactured home park or subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

25. Person - an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.
26. Post-FIRM Structure - is a structure for which construction or substantial improvement occurred after December 31, 1974 or on or after the community's initial Flood Insurance Rate Map (FIRM) dated April 15, 1977, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.
27. Pre-FIRM Structure - is a structure for which construction or substantial improvement occurred on or before December 31, 1974 or before the community's initial Flood Insurance Rate Map (FIRM) dated April 15, 1977, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.
28. Recreational vehicle - a vehicle which is:
- a. built on a single chassis;
 - b. not more than 400 square feet, measured at the largest horizontal projections;
 - c. designed to be self-propelled or permanently towable by a light-duty truck,
 - d. not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
29. Regulatory Flood Elevation - the base flood elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of one and one-half (1 ½) feet. The freeboard safety factor also applies to utilities and ductwork.
30. Special flood hazard area (SFHA) - means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.
31. Start of construction - includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days after the date of the permit and shall be completed within twelve (12) months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a

substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

32. Structure – a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
33. Subdivision - the division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.
34. 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.
35. Substantial improvement - any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or 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.
36. Uniform Construction Code (UCC) – The statewide building code adopted by The Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.
37. Variance- A grant of relief by a community from the terms of a floodplain management regulation.
38. Violation - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (c)(5) is presumed to be in violation until such time as that documentation is provided.

ARTICLE X. ENACTMENT

Section 10.01 Adoption

This Ordinance shall be effective on April 2, 2019 and shall remain in force until modified, amended or rescinded by Borough of West Pittston, Luzerne County, Pennsylvania.

ENACTED AND ADOPTED by the Council this 2ND day of April, 2019.

ATTEST:

COUNCIL OF THE BOROUGH OF WEST
PITSTON

Gloria Kijek
Borough of West Pittston Secretary

By: Ellen Quinn
Council President

<p style="text-align: center;">ARTICLE 13 ENFORCEMENT AND ADMINISTRATION</p>
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SECTION 1301 ZONING OFFICER

1301.1 APPOINTMENT

A Zoning Officer, who shall not hold any elected office within West Pittston Borough, shall be appointed by the Borough Council. The Zoning Officer shall meet qualifications established by West Pittston Borough, which shall at minimum include, a working knowledge of municipal zoning.

1301.2 DUTIES AND POWERS OF THE ZONING OFFICER

It shall be the duty of the Zoning Officer to enforce the provisions of this Ordinance in accordance with its literal terms and said Officer shall not have the power to permit any construction, alteration or any use or change of use to land or structure which does not conform to the applicable provisions within this Ordinance. The Zoning Officer's duties shall include but may not be limited to the following:

- (A) Receive and review all applications for zoning permits and to approve and issue zoning permits when warranted.
- (B) Keep an official record of all business and activities, including all complaints of zoning violations of any of the provisions of this Ordinance and the resulting action of said complaints.
- (C) Conduct inspections of properties as required to fulfill his/her duties. In conducting such activities, the Zoning Officer may have access to any land, building or structure.
- (D) Issue permits as authorized by the Zoning Hearing Board or the Planning Commission, pursuant to the requirements and applicable procedures of this Ordinance or by written order of a Court of proper jurisdiction.
- (E) Issue Certificates of Zoning Compliance in accordance with the terms and provisions of this Ordinance.
- (F) Issue Certificates of Nonconformity to nonconforming uses and/or structures and to maintain a listing of such as required.
- (G) Maintain the Zoning Map, showing the current zoning districts of all land and the zoning text, including amendments thereto.
- (H) Notify the Zoning Hearing Board of required and/or requested hearings based upon

the completion of his review and processing of applications for a zoning permit. The submission of an application for a zoning permit to the Zoning Officer and his determination that a hearing before the Board is either required or requested shall be a prerequisite for any application being forwarded to the Zoning Hearing Board for consideration.

- (I) Participate in proceedings before the Zoning Hearing Board and Planning Commission and at their request, furnish such facts, records and similar information which may assist them in rendering decisions.

SECTION 1302 ZONING PERMIT

1302.1 ISSUANCE OF PERMIT

No building, structure or sign shall be erected, constructed, moved, added to or structurally altered, nor shall any land, structure or building be put to any use without first obtaining a zoning permit from the Zoning Officer. No application shall be submitted to or considered by the Zoning Hearing Board until the Zoning Officer has received an application for a Zoning Permit and has determined that an approval and/or review by the Zoning Hearing Board is required or requested by the applicant. No such permit shall be issued except in conformity with the provisions of this Ordinance or upon written order from the Zoning Hearing Board in the form of a Special Exception, Variance or as otherwise provided for by this Ordinance or any Court of proper jurisdiction. Normal and routine maintenance and repairs to a structure shall be exempt from obtaining a zoning permit. Interior remodeling of a structure shall also be exempt from obtaining a zoning permit provided that such remodeling does not include structural alterations or result in a change in the use of the structure.

1302.2 FORM OF APPLICATION

All applications for permits shall be made in writing by the owner, his authorized agent or equitable owner and shall be filed with the Zoning Officer on forms prescribed by the same. All applications shall be accompanied by two sets of plans and information which includes but is not limited to the following:

- (A) A plan drawn to scale, indicating the actual dimensions and shape of the lot to be built upon and a written statement that the applicant is the owner or authorized agent of the owner or equitable owner.
- (B) The exact size and location on the lot of existing and/or proposed structures, buildings or signs, including proposed additions thereto.
- (C) The number and type of dwelling units, if applicable.
- (D) The amount and location of parking and/or loading facilities.
- (E) The existing use and/or proposed use of the property.

- (F) The height of the building, structure and/or sign.
- (G) A detailed scale drawing of all signs, existing and proposed, indicating their location and how they are and/or will be affixed to the property.
- (H) Existing and/or proposed access to the site.
- (I) Any other information deemed necessary by the Zoning Officer to determine conformance with the provisions and regulations of this Ordinance.

1302.3 PROCESSING APPLICATIONS

The Zoning Officer shall return one copy of the application, plans and accompanying information to the applicant upon marking such copies approved or denied and attested to the same by his signature. One copy of the application, plans and accompanying information shall be retained by the Zoning Officer and kept on file.

1302.4 TIME PERIOD FOR PROCESSING APPLICATION

A zoning permit shall be approved or denied within thirty (30) days from the date of receipt of a completed application and plans along with any additional information as required by the Zoning Officer. A zoning permit shall not be deemed complete, until all applicable and associated fees are paid in full. In cases of denial, the applicant shall be informed of his/her rights of appeal as prescribed within this Ordinance. Such notice shall be in writing under the signature of the Zoning Officer.

1302.5 EXPIRATION OF ZONING PERMIT

A zoning permit shall expire one year from the date of issuance, if the work described in said permit has not commenced, including permits authorized to be issued by the Zoning Hearing Board. If the work described within the zoning permit has commenced within the prescribed one year period, the permit shall expire two years from the date of issuance. An extension of time may be granted as a variance from the Zoning Hearing Board.

1302.6 REVOCATION OF PERMITS

The Zoning Officer may revoke a permit or approval issued in error under the provisions of this Ordinance or in the case of any false statements or misrepresentation of fact in the application or on the plans on which the permit or approval was based or for any other just cause as set forth in this Ordinance.

SECTION 1303 CERTIFICATE OF ZONING COMPLIANCE

A Certificate of Zoning Compliance, issued by the Zoning Officer, shall be required prior to the occupation for the use or change of use of any building, structure or land. It shall be unlawful to use and/or occupy any structure, building and/or land or portions thereof in any manner until a Certificate of Zoning Compliance has been issued and obtained

from the Zoning Officer. Residential accessory structures uses shall be exempt from securing a Certificate of Zoning Compliance.

1303.1 APPLICATIONS

All applications for a Certificate of Zoning Compliance shall be made in writing on forms prescribed by the Zoning Officer and shall include all information necessary for the Zoning Officer to ascertain compliance with the subject zoning permit and this Ordinance.

1303.2 ISSUANCE OF CERTIFICATE OF ZONING COMPLIANCE

A Certificate of Zoning Compliance shall not be issued until the Zoning Officer has certified the proposed use complies with all provisions and regulations of this Ordinance or upon written order from the Zoning Hearing Board or any Court of proper jurisdiction.

1303.3 TIME LIMITATION

An application for a Certificate of Zoning Compliance shall be approved or denied within thirty (30) days after the Zoning Officer has been officially notified of either the completion of construction or the request to occupy and use land where no construction is involved.

SECTION 1304 ENFORCEMENT PROCEDURES

1304.1 NOTICE OF VIOLATION

If in the judgment of the Zoning Officer, it appears that a violation of this Ordinance has occurred, the Zoning Officer shall initiate enforcement proceedings by sending a violation notice to the owner of record of the parcel of land on which the violation has occurred, to any person who has filed a written request to receive violation notices regarding the parcel of land and to any other person requested in writing by the owner of record. The violation notice shall include, but may not be limited to the following:

- (A) The name of the owner of record and any other person against whom West Pittston Borough intends to take action.
- (B) The location and/or address of the property in violation.
- (C) The specific violations with a description of the requirements which have not been met, citing in each instance the applicable sections and provisions of this Ordinance.
- (D) The date by which the steps for compliance must be commenced and the date by which the steps for compliance must be completed.
- (E) That the recipient of the notice has the right to appeal the violation notice and request a

hearing on the same before the Zoning Hearing Board within thirty days from the issuance of the violation notice and that any filing fees paid by the recipient of the notice to appeal an enforcement notice to the Zoning Hearing Board shall be returned to said party, if Zoning Hearing Board or any subsequent Court rules in favor of the appealing party. Section 1506, Hearings, (L), shall govern the procedural process of any appeal of a violation notice.

- (F) Failure to comply with the notice within the specified time period, unless extended by an appeal to the Zoning Hearing Board, constitutes a violation, with a description of sanctions which shall result to correct or abate the violation.

1304.2 CAUSES OF ACTION

In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Ordinance, Borough Council or, with the approval of the Borough Council, an officer or agent of West Pittston Borough, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceedings to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation of this Ordinance. When such action is instituted by a landowner or tenant, notice of that action shall be served upon West Pittston Borough not less than thirty (30) days prior to the time the action is begun by serving a copy of the complaint to the Borough Council. No action may be taken until such notice has been given.

1304.3 JURISDICTION

District Justices shall have initial jurisdiction over proceedings brought under this Section 1304.4 of this Ordinance.

1304.4 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 proceedings commenced by West Pittston Borough or the Zoning Officer, shall pay a judgment of not more than five hundred dollars, plus all court costs, including reasonable attorney fees incurred by West Pittston Borough as a result of said proceedings. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, West Pittston Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there has been a good faith basis for the person, partnership or corporation violating this Ordinance to have believed that there was no such violation. In such cases, 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 judgments, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to West Pittston Borough.

The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.

Nothing contained in this Section shall be construed or interpreted to grant any person or entity other than West Pittston Borough the right to commence any action for enforcement pursuant to this Section.

SECTION 1305 SCHEDULE OF FEES, CHARGES AND EXPENSES

The Borough Council shall establish by resolution a schedule of fees, charges and expenses and collection procedures for Zoning Permits, Certificates of Occupancy, Certificates of Nonconformance, appeals to the Zoning Hearing Board, applications for conditional uses, amendments to the Zoning Ordinance or Zoning Map and any other matters pertaining to the administration of this Ordinance. The schedule of fees, charges and expenses shall be available for public inspection and may be altered or amended by resolution of the Borough Council. No action shall be taken on any application, appeal or certificate until all related fees, charges and expenses have been paid in full. An application shall not be deemed as filed until completed and submitted with payment in full of appropriate fees.

<p style="text-align: center;">ARTICLE 14 AMENDMENTS</p>
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SECTION 1401 AMENDMENT PROCEDURE

The provisions of this Ordinance and the boundaries of the zoning districts as set forth upon the Zoning Map, may from time to time be amended by the Borough Council in accordance with the provisions as set forth in the Pennsylvania Municipalities Planning Code, Act 247, as amended. Prior to adopting any amendment to this Ordinance or to the Zoning Map, the following procedures shall be met:

- (A) Any proposed amendment, not initiated by the Borough Planning Commission, shall be referred to the Borough Planning Commission not less than thirty (30) days prior to a public hearing before the Borough Council to provide the Borough Planning Commission an opportunity to submit any comments or recommendations regarding the proposed amendment.
- (B) Prior to voting on the enactment of any proposed amendment, the Borough Council shall hold a public hearing pursuant to public notice. If, after any public hearing held upon a proposed amendment, said amendment is substantially changed, or is revised to include land not previously affected by the proposed amendment, the Borough Council shall hold another public hearing before proceeding to vote on the amendment.
- (C) Any recommendation of the Borough Planning Commission shall be submitted to the Borough Council in writing.
- (D) Not less than thirty (30) days prior to the public hearing, the Borough Council shall submit the proposed amendment to the Luzerne County Planning Commission for any comments and/or recommendations which it may wish to render. In addition, the required fee charged by the Luzerne County Planning Commission for its review shall be submitted with the proposed amendment. The party proposing the subject amendment shall be responsible for the payment of the required review fee to the Luzerne County Planning Commission.
- (E) Proposed action shall not be taken by the Borough Council, until the Borough Planning Commission and the Luzerne County Planning Commission comments and/or recommendations are submitted to the Borough Council. If either Planning Commission fails to act or respond within thirty (30) days, from its receipt of the proposed amendment, the Borough Council may proceed to consider enactment of the proposed amendment in the absence of such comments and/or recommendations.
- (F) If a proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by West Pittston Borough at points deemed sufficient along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted not less than one week prior to the date of the public hearing.

In addition to posting the tract, written notice may be provided to the owners of all properties within a distance of two hundred (200) feet of any property boundary line of the property subject to the proposed zone change. It shall be the responsibility of the applicant to provide the Borough with the names and mailing addresses of the true and correct owners of record whose properties fall within the required distance of two hundred (200) feet. While it shall be the intent of West Pittston Borough to provide written notice to such owners who may be substantially interested in the proposed amendment to the Zoning Map, failure to do so, shall not invalidate an otherwise a duly enacted ordinance which provides for a change in the Zoning Map.

SECTION 1402 APPLICATIONS FOR AMENDMENTS TO THE TEXT OR MAP

The application for a proposed amendment, which is not submitted as a curative amendment, to the text of this Ordinance or to the Zoning Map, shall be submitted in writing to the Zoning Officer, who shall process said application in accordance with Section 1401 of this Ordinance. An application shall contain the following information when applicable:

- (A) The applicant's name and address and/or the name and address of his authorized agent or the equitable owner.
- (B) A signed statement by the owner of record attesting to the truth of the facts of all information contained within the application.
- (C) A scaled plan of the area proposed to be rezoned, which indicates abutting streets, the zone classification of adjoining properties and the names and addresses of the true and correct owners of record based upon the records contained in the Luzerne County Tax Assessor's Office, for a distance (diameter) extending two hundred (200) feet from the area proposed to be rezoned.
- (D) Plans, drawings and explanatory material, which describes in detail the applicant's proposed use and/or development of the property.
- (E) Specify those Sections of this Ordinance or areas upon the Zoning Map which will be affected by the proposed amendment.

SECTION 1403 CURATIVE AMENDMENTS

1403.1 INITIATED BY LANDOWNER

A landowner who desires to challenge on substantive grounds the validity of this Ordinance or the Zoning Map, or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest, may submit a curative amendment to the Borough Council with a written request that his challenge and proposed amendment to cure the alleged defect, be heard and decided by the Borough Council. In addition to the written request and proposed amendment, the landowner shall also submit plans, drawings and explanatory material, which describes in detail his proposed use or development. The

Borough Council shall commence a public hearing pursuant to public notice within sixty days of the landowner's request. The sixty (60) day period shall not commence until all required information and material is submitted, along with all related fees.

The curative amendment and supporting information shall be referred to the Borough Planning Commission and the Luzerne County Planning Commission for its respective review, comments and/or recommendations not less than thirty (30) days prior to the public hearing. The applicant shall be responsible for the payment of the required review fee charged by the Luzerne County Planning Commission. If either Planning Commission fails to act or respond within thirty (30) days, from its receipt of the proposed curative amendment, the Borough Council may proceed to consider to act upon the proposed amendment in the absence of such comments and/or recommendations.

The public hearing before the Borough Council shall be conducted in accordance with the procedures contained in Section 1506 of this Ordinance and all references therein to the Zoning Hearing Board shall, for the purposes of this Section, be references to the Borough Council. Public notice of the required public hearing shall include notice of the validity of those particular provisions of this Ordinance and/or the Zoning Map which are in question, along with the place where the proposed amendment, plans, drawings, explanatory material and any other pertinent information may be examined by the public.

If the Borough Council determines that a validity challenge has merit, it may accept a landowner's curative amendment, with or without revisions, or it may adopt an alternative amendment which it deems appropriate to cure the challenged defects. The Borough Council shall consider in addition to the proposed curative amendment, plans, drawings and explanatory material related to the following items:

- (A) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.
- (B) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this Ordinance and/or Zoning Map.
- (C) The suitability of the site for the intensity of use proposed in relationship to the site's soils, slopes, woodlands, flood plains, aquifers, natural resources and other natural features.
- (D) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features, in relationship to the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts.
- (E) The impact of the proposal on the preservation of agriculture and any other land uses which are essential to the public health and welfare.

The proposed curative amendment shall be deemed denied in accordance with any of the following:

- (A) When the Borough Council fail to commence a public hearing within sixty (60) days from the date the curative amendment and request for a public hearing is filed.
- (B) When the Borough Council notifies the landowner that it will not adopt the curative amendment.
- (C) When the Borough Council adopts another curative amendment which is unacceptable to the landowner.
- (D) When the Borough Council fails to act on the request within forty-five (45) days after the close of the last public hearing on the request, unless the time is extended by mutual consent by the landowner and the Borough Council.

1403.2 INITIATED BY THE BOROUGH

If the Borough Council determines this Ordinance or the Official Zoning Map, or any portion thereof, to be substantially invalid, it shall declare such by a formal action and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following said declaration, the Borough Council shall by resolution make specific findings setting forth the declared invalidity which may include:

- (A) References to specific uses which are either not permitted or not permitted in sufficient quantity.
- (B) Reference to a class of use or uses which require revision.
- (C) Reference to the entire Ordinance and/or Map which requires revisions.

Within 180 days from the date of the declaration and proposal as set forth in this Section, the Borough Council shall enact a curative amendment to correct those portions deemed invalid or reaffirm the validity of those portions initially deemed to be invalid. Upon the initiation of procedures as set forth in this Section, the Borough Council shall not be required to entertain or consider any landowner's curative amendment, nor shall the Zoning Hearing Board be required to consider a substantive challenge to the validity of the Zoning Ordinance or Zoning Map, pursuant to Section 1508 (A) of this Ordinance, based upon grounds identical to or substantially similar to those specified in the Borough Council's resolution.

The Borough Council, having utilized the procedures as set forth in this Section, may not again utilize said procedure for a thirty-six month period following the date of the enactment of a curative amendment or reaffirmation of the validity of this Ordinance and/or Zoning Map. However, if after the date of declaration and proposal, there is a substantially new duty or obligation imposed upon West Pittston Borough by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, West Pittston

Borough may utilize the provisions of this Section to prepare a curative amendment to fulfill said duty or obligation.

SECTION 1404 ENACTMENT OF AMENDMENTS

A proposed amendment to this Ordinance or to the Zoning Map shall be enacted in conformance with the following:

- (A) The Borough Council shall conduct a public hearing pursuant to public notice and in accordance with the procedures as contained within Section 1401 of this Ordinance.
- (B) Public notice shall include the time, place and date of the meeting at which enactment will be considered and a place within West Pittston Borough where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost thereof.
- (C) Public notice shall include either the full text of the amendment or the title and a brief summary of the amendment as prepared by the municipal solicitor. If the full text is not included, then a copy of such shall be supplied to the newspaper in which the public notice is published, and an attested copy to the County Law Library.
- (D) In the event substantial changes are made to the proposed amendment, before voting upon enactment, the Borough Council shall, not less than ten days prior to enactment, readvertise in one newspaper of general circulation in West Pittston Borough, a brief summary setting forth all the provisions in reasonable detail together with a summary of the changes.

SECTION 1405 NOTIFICATION TO COUNTY

Within thirty (30) days after the enactment of an amendment to this Ordinance or to the Zoning Map, a copy of the amendment shall be forwarded to the Luzerne County Planning Commission.

ARTICLE 15
ZONING HEARING BOARD

SECTION 1501 MEMBERSHIP OF BOARD

The membership of the Zoning Hearing Board shall consist of three (3) residents of West Pittston Borough appointed by the Borough Council by resolution. The terms of office for Board members shall be three (3) years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Borough, including membership upon the Planning Commission.

SECTION 1502 ALTERNATES TO ZONING HEARING BOARD

The Borough Council may appoint by resolution one resident of West Pittston Borough to serve as an alternate member of the Board. When seated pursuant to the provisions of Section 1504 of this Ordinance, 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 proceedings, and shall have all the powers and duties set forth in this Ordinance and as otherwise provided by law. An alternate shall hold no other office in the Borough, including membership on the Planning Commission. An alternate may participate in any proceedings or discussions of the Board, but shall not be entitled to vote as a member of the Board unless designated as a voting alternate member pursuant to Section 1504 of this Ordinance. The term of office for an alternate member of the Zoning Hearing Board shall be one (1) year.

SECTION 1503 REMOVAL OF MEMBERS

Any Board member or alternate may be removed for malfeasance, misfeasance or nonfeasance in office or for any other just cause by the Borough Council. Prior to any vote by the Borough Council, the member shall receive notice fifteen days in advance of the date at which it intends to take such a vote. A hearing before the Borough Council shall be held in connection with the vote, if the member requests a hearing in writing.

SECTION 1504 ORGANIZATION OF BOARD

The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board. The Board, however, 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 1506. If by any reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate the alternate member of the Board to be seated to establish a quorum. The 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.

The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of West Pittston 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 an annual report of its activities to the Borough Council.

SECTION 1505 EXPENDITURES FOR SERVICES

Within the limits of appropriated funds, the Board may employ or contract for secretaries, clerks, legal counsel, consultants, and technical services which they may deem necessary to augment the Board in the performance of their duties.

SECTION 1506 HEARINGS

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

- A. Notice of hearings before the Board shall be by public notice; a notice published once a week for two (2) successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of matters to be considered at the hearing by the Board. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.
- B. Written notice of all hearings before the Board shall be conspicuously posted on the affected property not less than one week prior to the hearing.

Written notice shall be given to the Zoning Officer, to the applicant, to the owner of record of the subject property before the Board, if different than that of the applicant, to the owner of record of any property which has a common side yard or rear yard boundary with the subject property before the Board and to any party or person who has submitted a written request to receive notification on the subject property.

The applicant shall be responsible for providing the Zoning Hearing Board with the names and addresses of the true and correct owners of record based upon the records contained in the Luzerne County Tax Assessor's Office. While it shall be the intent of the West Pittston Borough Zoning Hearing Board to provide written notice to property owners which have a common side yard, rear yard or opposite frontage to the subject property before the Board, failure to do so, shall not represent a basis for appeal or otherwise invalidate a decision and/or finding of the Zoning Hearing Board.

In the event a hearing is continued to a future date for the purpose of obtaining additional information, additional testimony or to render a decision, and the Zoning Hearing Board publicly announces during the course of the hearing the time and date for the resumption of the hearing, additional written notice need not be provided to the above parties

- C. The Borough Council may prescribe reasonable fees with respect to hearings before the Board. Fees for said hearings may include compensation for the secretary, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Board or expenses for engineering, architectural or other technical consultants or expert witnesses.
- D. 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. The sixty day time period shall not commence until the applicant has submitted the required application, properly completed, with all required signatures and all required fees.
- E. Hearings shall be conducted by the Board or by any member appointed by the Board as a hearing officer. The decision, or where no decision is called for, the findings shall be made by the Board, unless the appellant or applicant, as the case may be, in addition to the Borough, agree to waive any decision or findings by the Board and accept the decision or findings of the hearing officer as final. If the decision or findings of the hearing officer are to be accepted as final, all parties to the hearing must agree to such stipulation at the outset of the hearing.
- F. The parties to the hearing shall be the Borough, any person affected by the application who has made a timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties to the hearing enter appearances in writing on forms provided by the Board for such purpose.
- G. The presiding chairman or acting chairman of the Board or hearing officer shall have the power to administer oaths and issue subpoenas to compel attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties to the hearing. The parties to the hearing shall have the right to be represented by legal counsel and shall be afforded the opportunity to respond and present evidence and arguments and to cross-examine adverse witnesses on all relevant issues.
- H. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- I. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer, or shall be paid by the person appealing from the decision of the Board, if such appeal is made and in the event the cost of additional copies shall be paid by the person requesting such copies. In other cases the party requesting the original transcript shall bear the cost thereof.
- J. The Board, collectively or individually, or the hearing officer, shall not communicate directly or indirectly with any party or his representatives in connection with any issue before the Board involved except upon notice and opportunity for all parties to

participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from its solicitor, unless all parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

- K. The Board or the hearing officer, as the case may be, shall render a written decision or, if no decision is called for, make written findings on the application within forty-five days after the last hearing before the Board or hearing officer. If the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of the Ordinance or any other ordinance, rule or regulation, shall contain a reference to the provisions relied upon and the reasons why the conclusion is deemed appropriate in light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties of record within forty-five days. The parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, with the Board's decision entered no later than thirty days after the report of the hearing officer. If the Board fails to hold the required hearing within sixty (60) days from the date of the applicant's request for hearing, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. If a decision has been rendered in favor of the applicant because of their failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within ten days from the last day it could have met to render a decision in the same manner as provided under Section 1506 (A) and written notice of the decision shall be mailed to those parties identified under Section 1506(B). If the Board fails to provide such notice, the applicant may do so. Nothing contained within this Section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
- L. In any appeal of an enforcement notice under Section 1304.1 of this Ordinance to the Zoning Hearing Board shall require that the Zoning Officer and/or Borough provide its evidence first to the Board regarding the basis, nature and supporting information regarding the subject enforcement notice. Upon the conclusion of the same, the appealing party shall provide the Board with his/her evidence in contesting the subject enforcement notice. Any filing fees paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to said party, if Zoning Hearing Board or any subsequent Court rules in favor of the appealing party.
- M. The final decision or, where no decision is called for, the findings shall be rendered by the Zoning Hearing Board at a public hearing. A copy of the written decision or findings shall be delivered to the applicant personally or mailed to him not later than the day following the date of the Board's decision or findings. The Zoning Hearing Board shall provide by mail or otherwise, to all persons who have filed their name and address with the Board, not later than the last day of the hearing, a statement of brief notice of the decision or findings and a statement of the place and at which a copy of the full decision or findings may be examined.

SECTION 1507 MEDIATION OPTION

1507.1 Mediation may be utilized as an aid designed to supplement, as opposed to replacing, any proceedings before and under the jurisdiction of the Zoning Hearing Board. In no case, however, shall the Board or any member of the Board, initiate the use of mediation. No member of the Board shall be allowed to participate as a mediating party or be present during any sessions of mediation. Nothing within this Section shall be interpreted as expanding or limiting municipal police powers or modifying any principles of substantive law.

1507.2 Mediation shall be voluntary among all subject parties with the appropriateness of mediation determined by the particular issues of each case and the willingness among all the subject parties to negotiate. In order to supplement proceedings before the Zoning Hearing Board, the following information shall be submitted to the Board in written form and signed by all parties to the mediation, the selected mediator, and the Zoning Hearing Board.

- A. Method and commitment of funding of mediation.
- B. The mediator shall be an attorney and/or an individual who is certified by the American Arbitration Association, who shall possess a working knowledge of municipal zoning and subdivision practices and procedures.
- C. A schedule which shall clearly prescribe the time limitations for both the start and completion of mediation. The completion date shall be adhered to even if the negotiations fail to result in a mediated agreement by said date.
- D. Suspension of the appropriate time limitations which apply to the Zoning Hearing Board in convening a hearing and/or rendering a decision, once a hearing is convened, subject to executing a document of expressed written consent by the mediating parties, and by the Zoning Hearing Board.
- E. Identification of all subject parties and affording them the opportunity to participate.
- F. A determination of whether some or all of the mediation sessions shall be opened or closed to the public, subject to governing legal constraints.
- G. An agreement among the mediating parties, that any mediated solution be in written form and subject to review and approval by the Zoning Hearing Board.

- H. Any mediation which concludes within the prescribed time limits under Item C of this Section, which does resolve in whole or in part, the issues subject to mediation, shall then proceed under the hearing process before the Zoning Hearing Board.
- I. No offer or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

SECTION 1508 JURISDICTION OF ZONING HEARING BOARD

The Zoning Hearing Board, in accordance with the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall have exclusive jurisdiction to hear and render final adjudication in the following matters:

- A. Substantive challenges to the validity of any land use ordinance, except for those brought before the Borough Council under Section 1403.1 of this Ordinance.
- B. Challenges to the validity of any land use ordinance, based upon procedural questions or alleged defects in the process of enactment or adoption. Challenges based upon procedural questions or alleged defects shall be raised by an appeal to the Board within thirty days after the effective date of the Ordinance subject to the appeal.
- C. Appeals from the determination of the zoning officer, including but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order, the revocation of a zoning permitted/or building permit or the registration or refusal to register any nonconforming use, structure or lot.
- D. Appeals from a determination by the zoning officer with reference to the administration of any flood plain provision or regulation within any land use ordinance.
- E. Applications for variances, pursuant to Section 1509 of this Ordinance.
- F. Applications for special exceptions pursuant to Section 1510 of this Ordinance.
- G. Appeals from the determination of the zoning officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management not related to development which is classified as a subdivision, land development, or a planned residential development.

SECTION 1509 VARIANCES

1509.1 INITIAL DETERMINATION BY ZONING OFFICER

An application for a variance shall not be submitted to or considered by the Zoning Hearing Board until the following procedure has been completed:

1. The applicant submits an application for a Zoning Permit to the Zoning Officer in accordance with Section 1302 of this Ordinance.
2. The Zoning Officer is reviewing the subject application renders a determination that the proposed development and/or use of property fails to comply with an applicable provisions and/or regulations of this Ordinance.
3. The Zoning Officer specifies the applicable Sections of this Ordinance relative to the applicant's need to secure a variance(s) from the Zoning Hearing Board.

1509.2 PROVISIONS FOR GRANTING VARIANCES

The Zoning Hearing Board shall hear requests for variances if it is alleged that the provisions of this 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 such 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 the 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 regulation in issue.

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

SECTION 1510 SPECIAL EXCEPTIONS

1510.1 INITIAL DETERMINATION BY ZONING OFFICER

An application for a special exception use shall not be submitted to or considered by the Zoning Hearing Board until the following procedure has been completed:

1. The applicant submits an application for a zoning permit to the Zoning Officer in accordance with Section 1302 of this Ordinance and a Site Plan in accordance with Section 603 of this Ordinance.
2. The Zoning Officer shall initially review the Site Plan to determine its compliance with Section 603 of this Ordinance.
3. The Zoning Officer shall also render a determination regarding whether the proposed development and/or use is required to secure any variances from the Zoning Hearing Board, in addition to securing a special exception approval.

1510.2 PROVISIONS FOR GRANTING A SPECIAL EXCEPTION APPROVAL

The Zoning Hearing Board shall hear and decide requests for uses and/or development which are permitted as special exception uses. Special exception uses shall be referred to the Planning Commission for their review, comments and recommendations prior to final action by the Board. The Board shall grant approval only upon the determination that the proposed use and/or development conforms with all applicable standards and provisions within this Ordinance and the following expressed standards and criteria:

1. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use and/or development.
2. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion, and for providing for the safety and convenience of pedestrian and vehicular traffic.
3. The relationship of the proposed use and/or development to other uses and activities existing or planned in the vicinity shall be harmonious in terms of the location and site relative to the proposed operation, and the nature and intensity of the operation involved.
4. The relationship of the proposed use and/or development to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls, and fences so that the use, development, and value of adjacent property is not impaired.
5. The proposed use and/or development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the district.

6. The proposed use and/or development shall not be injurious to the public interest.

In granting approval, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

SECTION 1511 PARTIES APPELLANT BEFORE THE BOARD

Appeal and/or applications for hearings before the Zoning Hearing Board pursuant to those matters contained within Section 1509 of this Ordinance, may be filed with the Board in writing by the affected landowner or by any aggrieved person or party. The Board shall not accept appeals or applications for hearings from any tenant or equitable owner of a property without the express written consent of the landowner. In such cases, the landowner's signature shall be required upon all applicable forms, applications or documents which are to be submitted to the Board.

SECTION 1512 TIME LIMITATIONS

1512.1 No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after an application for the development, preliminary or final, has been approved by an appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan for a Planned Residential Development, pursuant to Section 709 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, or from an adverse decision by a zoning officer on a challenge to the validity of an ordinance or map based upon substantive grounds, pursuant to Section 916.2 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

1512.2 Any landowner wishing to appeal a decision of the Zoning Hearing Board shall be required to file such appeal to a court of competent jurisdiction within thirty days after the notice of the Board's determination is issued. Failure to do so within the prescribed thirty day time period shall preclude any further appeal of the Board's decision.

SECTION 1513 STAY OF PROCEEDINGS

1513.1 Upon filing of any proceeding referred to in Section 1508 of this Ordinance, and during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to

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

1513.2

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

1513.3

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

1513.4

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

ARTICLE 16 APPEALS

SECTION 1601 APPEALS TO COURT

The procedures set forth in Article X-A of the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall constitute the exclusive mode for securing judicial review of any decision rendered or deemed to have been made under this Ordinance.