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PART 1

GENERAL PROVISIONS

§27-101. Short Title.

This Chapter shall be known and may be cited as the “Aspinwall Zoning Ordinance” and the district map shall be known and may be cited as the “Official Aspinwall Zoning District Map.”

(*Ord. 775, 6/15/1983, §140-101*)

§27-102. Statement of Purposes.

The fundamental purposes of this Chapter are to promote the safety, health, convenience and general welfare; to encourage the most appropriate use of land throughout the Borough; to conserve and stabilize the value of property; to prevent overcrowding of land and buildings; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate open spaces for light and air; to facilitate adequate provision of streets and highways, water, sewerage, drainage and other public facilities; to conserve life, property and natural resources; and to conserve the expenditure of funds earmarked for public improvements.

(*Ord. 775, 6/15/1983, §140-102; as amended by Ord. 806, 6/11/1986*)

§27-103. Community Development Objectives.

This Chapter is to render a legal basis and framework to the future land-use plan and development goals established in the statement of community development objectives, adopted by *Res. 83-5* by Borough Council on February 9, 1983, and to the goals and objectives presented in the regional plan, prepared by the Guyasuta Joint Municipal Planning Commission, August 1981.

(*Ord. 775, 6/15/1983, §140-103; as amended by Ord. 806, 6/11/1986*)

§27-104. Application of the Regulations.

1. The regulations established by this Chapter shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except that additional classifications may be made within any district for the purposes of: (A) making transitional provisions at or near the boundaries of districts; (B) regulating nonconforming uses and structures; (C) regulating, restricting or prohibiting uses and structures at or near major thoroughfares, their intersections and interchanges; natural or artificial bodies of water; places of relatively steep slope or grade; public buildings and grounds; places having unique historical or patriotic value or interest; floodplain areas and other places having a special character or

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- use affecting or affected by their surroundings. Among several classes of zoning districts, the provisions for permitted uses may be mutually exclusive, in whole or in part.
2. No building, structure or land shall hereafter be used or occupied; and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all the regulations herein specified for the district in which it is located.
 3. No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Chapter shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building, unless otherwise provided by this Chapter.
 4. No yard or lot existing at the time of passage of this Chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Chapter shall meet at least the minimum requirements established by this Chapter. In case of subdivision or combination of lots, no lot shall be created which does not meet the requirements of this Chapter. [*Ord. 806*]
 5. It is the intention of the Borough that all property within its boundaries shall be zoned. In the event any property within the Borough has previously been left unzoned, or is currently unzoned, or in the event any property shall at any time hereafter be determined to be unzoned, or not classified as belonging to any particular zoning district by proper ordinance, the same shall nonetheless be subject to all applicable general provisions and standards of this Chapter. Additionally, such property shall be subject to the use, area and bulk regulations, off-street parking requirements and other general provisions otherwise applicable to properties in an AR-4 Zoning District. [*Ord. 939*]
 6. In the case any public building, facility or land area, such as a school, recreation area, community center or municipal building, shall cease to be used according to its intended function, the Borough Planning Commission shall study the existing zoning classification of the property on which the said use is located and shall make recommendations to the Borough Council on any necessary zoning changes to ensure a suitable reuse of the parcel. This study and recommendation shall be made by the Planning Commission within 90 days of the notification by the appropriate public entity of the intent to terminate the existing use of the property.

(*Ord. 775*, 6/15/1983, §140-104; as amended by *Ord. 806*, 6/11/1986; and by *Ord. 939*, 10/14/1998, §2)

§27-105. Interpretations

1. Wherever the regulations within this Chapter are at variance with other lawfully adopted rules, regulations, ordinances, restrictions or covenants, those which

- impose the most restrictive requirements shall govern.
2. No structure or use which was not lawfully existing at the time of the adoption of this Chapter shall become or be made lawful solely be reason of the adoption of this Chapter; and to the extent that, and in any respect that, said unlawful structure or use is in conflict with the requirements of this Chapter, said structure remains unlawful hereunder.
 3. Regardless of any other provision of this Chapter, no land shall be used and no structure erected or maintained in violation of any state or Federal environmental protection law or regulation.

(Ord. 775, 6/15/1983, §140-105)

§27-106. Wellhead Protection.

This Chapter is hereby supplemented by Chapter 26 of the Aspinwall Code, Wellhead Protection, and the same shall be considered an amendment to and a part of this Chapter.

(Ord. 775, 6/15/1983, §140-106; as added by Ord. 930, 12/10/1997, §3)

PART 2

DEFINITIONS

§27-201. Language Interpretations.

For the purpose of this Chapter certain terms and words used herein shall be interpreted or defined as follows:

- A. Words used in the present tense shall include the future.
- B. Words in the singular shall include the plural.
- C. The word “person” includes a corporation, company, partnership and association, as well as an individual.
- D. The word “lot” includes the words “plot” or “parcel.”
- E. The term “shall” is always mandatory.
- F. The words “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged or designated to be used or occupied.”
- G. The word “building” includes the word “structure.”

(Ord. 775, 6/15/1983, §140-201)

§27-202. Definitions.

In addition to the following definitions, diagrams illustrating key lot, area and bulk and sign terms appear at the end of this Section. In the event of any discrepancy between the illustration and the written definition, the definition shall govern.

ACCESSORY STRUCTURE OR USE - a use, building or structure, the use of which is customarily incidental and subordinate to the main or principal use, building or structure and which is located on the same lot therewith.

ADULT ORIENTED BUSINESS - an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center, tattoo parlor or body-piercing establishment as defined in Chapter 13, Part 8, of the Aspinwall Borough Code of Ordinances, Adult Oriented Businesses. [*Ord. 995*]

ALLEY - a narrow service way providing a secondary public means of access to the rear or side of properties otherwise abutting on a street.

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ALTERATION - an incidental change, rearrangement, replacement or enlargement in the structural parts or in the means of egress, whether by extending on a side or by increasing in height, or the moving from one location or position to another; or by change in use from that of one district classification to another.

AMUSEMENT ARCADE - a business, or portion thereof, having on its premises for use by the public, five or more video or electromechanical devices operated by inserting a coin or token.

APPLICANT - a landowner or developer, as hereinafter defined, who has filed an application for development including his/her heirs, successors and assigns.

APPLICATION FOR DEVELOPMENT - every application, whether preliminary, tentative or final, required to be filed pursuant to this Chapter. [*Ord. 995*]

APARTMENT - see "Dwelling, Multifamily."

BASEMENT OR CELLAR - a story wholly or partly underground. A basement shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet or if used for business or dwelling purposes.

BILLBOARD - a sign, other than one indicating a business conducted on the premises, upon which advertising matter of any character is printed, posted or lettered; it may be either freestanding or attached to the surface of a building or other structure, or applied directly to the surface. (See also, "Sign").

BOROUGH - Borough of Aspinwall.

BOROUGH COUNCIL - the Council of the Borough of Aspinwall. [*Ord. 995*]

BOROUGH ENGINEER - the professional engineer licensed as such in the Commonwealth of Pennsylvania and duly appointed as the engineer of the Borough of Aspinwall, or his designee. [*Ord. 995*]

BOROUGH MANAGER - the Manager of the Borough of Aspinwall, or his designee, or the designee of Borough Council. [*Ord. 995*]

BUFFER AREA - an area of land which may include natural or artificial land forms or a planted area with shrubs, bushes, trees, grass or other ground cover material, and within which no structure or building shall be authorized except a wall or fence which meets requirements of this Chapter.

BUILDING - any covered structure that is permanently affixed to the land.

BUILDING FOOTPRINT - the existing location of a building on property as delineated by the outermost location of the building's walls and foundation. [*Ord. 1001*]

BUILDING LINE - a line which designates the minimum distance that a building must be erected from a street right-of-way line. Such distance shall be measured at right angles from the front street right-of-way which abuts the property upon

which said building is located and be parallel to said right-of-way line. The building line shall not include steps.

BUILDING AREA - the area of the lot within the building lines, bounded by the required yards; where there is no required yard, then bounded by the lot line.

BULK - the term used to describe the size of buildings and their relationship to one another, to open areas, and to lot lines. Requirements relating to the bulk include standards for size, including area, height and floor area of a building; the number of dwelling units in a residential building in relationship to the area of the lot; and areas in yards or other open spaces.

BUSINESS AND PROFESSIONAL OFFICE - the office of an engineer, doctor, dentist, attorney, real estate broker, insurance broker, architect or other similar professional person; and any office used primarily for accounting, correspondence, research, editing or administration.

CHURCH - a building used as a place of religious worship or teaching (except rescue mission, temporary revival structure, or retreat house). [*Ord. 908*]

CLEAR SIGHT TRIANGLE - the unobstructed sight along both roads or driveways at an intersection and across their included corner for distances sufficient to allow the operators of vehicles approaching simultaneously to see each other in time to prevent a collision. The minimum sight triangle may vary according to type of street and speed limit. Sight distance along the street shall be measured at the height of the driver's eye, which is assumed to be 3.75 feet above the road surface (see illustration).

COMMERCIAL - engaging in a business, enterprise, activity or other undertaking for profit.

COMMON OPEN SPACE - a parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of the development, but excluding streets, off-street parking areas, and areas set aside for public facilities.

COMMUNICATIONS ANTENNA - any device used for the transmission or reception of radio, television, wireless, telephone, pager, commercial mobile radio service or any other wireless communications signals including, without limitation, omnidirectional or whip antenna and directional or panel antenna, owned or operated by any person or entity licensed by the Federal Communications Commission ("FCC") to operate such device. This definition includes free standing antenna, antenna mounted on communication towers ("tower-mounted communication antenna") and antenna mounted on buildings ("building-mounted communication antenna"). This definition does not include private residence mounted satellite dishes or television antenna or amateur radio equipment including, without limitation, ham or citizen band radio antenna. [*Ord. 938*]

COMMUNICATIONS EQUIPMENT BUILDING - any unmanned building, court

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or other enclosure containing equipment or control devices for the operation of a communication antenna. [*Ord. 938*]

COMMUNICATIONS TOWER - a structure other than a building, such as a monopole, self-supporting or guyed tower, designed and used to hold and facilitate the operation of a communications antenna. [*Ord. 938*]

COMMUNICATIONS TOWER HEIGHT - the vertical distance measured from the ground level to the highest point on a communications tower, including any communications antenna mounted on the tower. [*Ord. 938*]

CONDITIONAL USE - a use which may be permitted in one or more zoning districts upon approval of Borough Council who may grant approval pursuant to express standards and criteria and the provisions of this Chapter.

CONSTRUCTION - the erection, renovation, repair, extension, expansion, alteration or relocation of a building, structure or site improvements including the placement of mobile homes. [*Ord. 995*]

CORNER LOT - see "Lot, Corner."

COUNCIL - Aspinwall Borough Council.

COUNTY - Allegheny County, Pennsylvania. [*Ord. 995*]

COUNTY PLANNING AGENCY - Allegheny County Department of Economic Development or its successor. [*Ord. 995*]

COURT - an open unoccupied, uncovered space partially or wholly surrounded by the walls of a building or structure.

COVERAGE - see "Lot, Coverage."

DAY - days shall be measured by calendar days wherever a time period is stipulated in this Chapter.

DAY CARE CENTER - a facility providing care, supervision and/or instruction for six or more pre-school age children and licensed to operate as such by the Pennsylvania Department of Public Welfare.

DEVELOPER - any landowner, agent of such landowner or tenant with the permission of such landowner, who undertakes a development.

DEVELOPMENT - any change to real estate including, but not limited to, the erection, construction or placement of a structure or building, utilities, streets, parking and loading areas or other paved filling, grading, excavation, mining, drilling or dredging operations, or the placement of mobile homes.

DWELLING UNIT - a single unit providing complete, independent living facilities

for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation. It shall not be deemed to include hotels, boarding or rooming houses, institutional facilities and residence clubs.

MULTIFAMILY DWELLING - a residential building containing three or more separate dwelling units.

SINGLE FAMILY DWELLING - a detached residential dwelling unit, other than a mobile home, occupied by only one family.

TWO FAMILY DWELLING - a detached building occupied by only two families, independent of each other, with the two units either attached side by side or one above the other.

DWELLING UNIT DENSITY - the maximum number of dwelling units authorized per acre.

EATING and DRINKING ESTABLISHMENT - a place for the sale and consumption of food and/or beverages to the general public, which includes restaurants, bars, taverns and similar establishments.

ENGINEER - a professional engineer licensed as such in the Commonwealth of Pennsylvania. [*Ord. 995*]

ESSENTIAL SERVICES - underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems and their required buildings, owned and operated by a public utility (licensed by the Pennsylvania Public Utility Commission as such). Essential services do not include public or private incinerators, landfills or similar waste disposal facilities, or towers or other structures used for telecommunications, radio, cellular telephone, paging, television or similar uses. [*Ord. 908*]

FAMILY - an individual, or two or more persons related by blood or marriage or adoption, living together in a dwelling unit; or a group of not more than three persons who need not be related by blood or marriage or adoption, living together as a single housekeeping unit in a dwelling unit, and sharing common facilities as considered reasonably appropriate for a family related by blood, marriage or adoption; provided, however, that "family" shall not include boarding homes, family boarding homes, nursing or convalescent homes, institutional facilities, group residences, dormitories, fraternity houses, sorority houses, or similar uses. [*Ord. 908*]

FAMILY BOARDING HOME - a facility, located in a residential area, where the resident household provides room, board and specialized services to six or fewer unrelated persons. These individuals may be children, handicapped, elderly or otherwise in need of specialized supervision and care. This category of facility requires licensing as a personal care home by the Pennsylvania Department of Public Welfare.

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FENCE - any structure constructed of wood, metal, wire, mesh or masonry erected for the purpose of screening one property from another to assure privacy, protection or confinement of the property. The term "fence" shall include screening walls and hedges exceeding 30 inches in height.

FLOODPLAIN - a relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation; and/or an area subject to the unusual and rapid accumulation or runoff of surface waters. The boundaries of the 100 and 500 year floodplain are delineated on the Borough Flood Insurance Study.

FLOODPLAIN DISTRICT - all areas subject to the inundation by waters of the 100 year flood. The basis for delineation of this district shall be the same as designated in the documentations of the Flood Insurance Study, the Flood Insurance Rate Map and the Flood Boundary and Floodway Map for the Borough of Aspinwall, as prepared by the Federal Insurance Administration.

FLOOD FRINGE AREA - the flood fringe area of the floodplain district shall be that area of the 100 year floodplain not included in the floodway area. The basis for this outermost boundary of this area shall be the 100 year flood elevations contained in the flood profiles of the Flood Insurance Study and as shown on the Flood Boundary and Floodway Map for Aspinwall Borough.

FLOODWAY - the channel of a river, stream or other watercourse capable of carrying the waters of the 100 year flood without increasing the water surface elevation of that flood not more than 1 foot at any point. The boundaries of the floodway are delineated on the Flood Insurance Study and Flood Boundary Maps for Aspinwall Borough.

FRONT YARD - see "Yard, Front."

GARAGE - a fully enclosed building for the storage of motor vehicles, not including buildings in which fuel is sold, or repair or other service is performed.

GARDEN DWELLING - a multifamily structure, usually not exceeding three stories in height, sometimes designed around courts or common open areas, frequently having private balconies or patios.

GASOLINE SERVICE STATION - building and premises where petroleum products, batteries, tires and automobile accessories may be supplied and sold at retail, and where services may be rendered in connection with these products, including inspection, greasing, hand washing, polishing, servicing, and adjustment of vehicles providing no major repair work is done.

GROSS FLOOR AREA - the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior wall or from the center line of walls separating two buildings. For the purposes of determining permissible size and off-street parking and loading requirements, "flood area" shall include: (A) floor space devoted to the principal use of the premises, including

accessory storage areas located within selling or working space such as counters, racks, or closets; (B) any basement floor area devoted to retailing activities; and, (C) floor area devoted to the production or processing of goods or to business or professional offices. For this purpose, floor area shall not include space devoted primarily to storage purposes (except as noted above), off-street parking or loading facilities, including aisles, ramps and maneuvering space, or basement floor area other than area devoted to retailing activities, the production or processing of goods, or business or professional offices.

GROUP RESIDENCE - a facility located in a residential area, which provides room, board and specialized services to six or fewer unrelated persons, such as children (under 18 years), handicapped or elderly (over 60 years) individuals. The individuals must be living together as a single housekeeping unit with one or more adults providing qualified 24 hour supervision. The group residence may be operated by a governmental agent, certified agent or nonprofit corporation. This category shall not include facilities operated by or under the jurisdiction of any government bureau of corrections or similar institution.

HEIGHT, MAXIMUM - the vertical distance measured from top of grade to the top of the highest roof beams of a flat roof, or the mean level of the highest gable or slope or a hip roof. Chimneys, flues, stacks, fire escapes, gas holders, elevator enclosures, ventilators, skylights, water tanks and similar roof structures required to operate and maintain the building on which they are located shall not be included in calculating maximum height. For purposes of measurement, grade shall be the average of finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, when the lot line is more than 6 feet from the building, between the building and a point 6 feet from the building.

HOME OCCUPATION - see “no-impact home based business.” [*Ord. 995*]

HOTEL/MOTEL - a building or group of buildings containing rooms which provide sleeping accommodations for transient guests on a daily or weekly basis. The term shall include motor hotel, motor inn, motor lodge, tourist court, inn and similar uses.

INSTITUTIONAL FACILITY - a facility providing room and board for more than six persons who are residents by virtue of requiring specialized care and supervision relating to health, social and/or rehabilitative services. The facility shall be staffed on a 24 hour basis by qualified personnel and operated in accordance with Commonwealth and Allegheny County laws and regulations.

JUNK - any discarded material, articles or things including, but not limited to, scrap, copper, brass, rope, rags, batteries, paper, trash, rubber debris, water, iron, steel and other old or scrap ferrous or non-ferrous material. Any wrecked, ruined, dismantled, abandoned, non-operable, disable or junked motor vehicles or parts thereof, or motor vehicles no longer used as such. [*Ord. 995*]

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JUNK VEHICLE - any vehicle which is without a currently valid license plate or State registration and is in a rusted, wrecked, discharged, dismantled, partly dismantled, inoperative, or abandoned condition, or for which the certificate of title has been returned to the Pennsylvania Department of Transportation in accordance with the provisions of the State Vehicle Code, or which by its appearance is unsightly and not in repairable condition, or which has been declared abandoned according to the provisions of the Borough of Aspinwall, Motor Vehicle and Traffic Ordinance [Chapter 15 hereof] or the State Vehicle Code. Where a certificate of junk has been issued by the Pennsylvania Department of Transportation, such certificate shall be conclusive evidence that the subject vehicle is a junk vehicle; however, where no such certificate has been issued or applied for, the failure to have the vehicle licensed shall be prima facie evidence that the subject vehicle is a junk vehicle. [Ord. 995]

JUNKYARD - any yard, lot or place covered or uncovered, outdoors or in an enclosed building or structure, containing junk as defined herein, upon which occurs one or more acts of buying, keeping, storing, accumulating, dismantling, processing recycling, salvaging, selling or offering for sale any such junk, in whole units or by parts, or any premises used for the storage of junk vehicles. [Ord. 995]

LAND DEVELOPMENT - any of the following activities:

- (1) The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
 - (a) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure.
 - (b) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, condominiums, building groups or other features.
- (2) A subdivision of land.
- (3) Development in accordance with §503(1.1) of the MPC.
- (4) As used in this definition, the term "improvement" shall include, but not be limited to, construction, reconstruction, renovation, remediation and other similar activities:
 - (a) That increase or expand the building footprint and/or outside dimensions of an existing building on the subject property.
 - (b) The cost of which is equal to or greater than 40% of the fair market value of the subject property as established by the

current Allegheny County property assessment records.

- (c) The cost of which is \$100,000 or more.

[*Ord. 1001*]

LAND DEVELOPMENT PLAN - a plan that encompasses a proposed land development, which, in addition to a plat of subdivision, if required, includes all covenants relating to the use of the land; a topographic and boundary survey of the lot or parcel, the proposed use, location and bulk of buildings and other structures; the intensity of use or density of development; vegetation, drainage, floodways, wetlands and waterways, streets, ways and parking facilities; pedestrian circulation routes, common open space and public facilities. The "land development plan" shall include all of the written and graphic information required by the Subdivision and Land Development Ordinance [Chapter 22]. [*Ord. 995*]

LANDOWNER - the legal or beneficial owner of land including the holder of an option or contract to purchase (whether or not such an option or contract is subject to any condition); a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in the land, shall be deemed to be a landowner.

LOADING SPACE, OFF-STREET - space conveniently located, accessible and properly designed for the temporary use by vehicles making bulk pickups or deliveries of merchandise or materials.

LOT - a tract of land in a plan of subdivision, consolidation or land development or any other parcel of land described in a deed or legal instrument pursuant to the laws of the Commonwealth of Pennsylvania intended to be used as a unit for development or transfer of ownership. All lots shall front on a street improved to Borough Construction Standards. [*Ord. 872*]

LOT AREA - the total area within the boundary of a lot but excluding the area of land bounded by any front lot line, the center line of a street right-of-way on which its fronts and the side lot lines intersecting the front lot line at its end extended to

the center line of the street right-of-way.

LOT AREA PER DWELLING UNIT - the quotient obtained by dividing the total lot area by the total number of dwelling units to be located on such lot.

LOT COVERAGE - that percentage of a lot which when viewed directly from above would be covered by a structure or structures, or any part thereof, excluding protecting roof eaves.

LOT DEPTH - the distance between the midpoints of the front lot line and the rear lot line.

LOT WIDTH - the distance between the side lot lines measured at right angles to the lot depth at the established front building line.

LOT, CORNER - a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

LOT LINE, FRONT - a street right-of-way line forming the boundary of a lot.

LOT LINE, REAR - the lot line that is most distant from, and is, or is most nearly parallel to the front lot line. If a rear lot line is less than 15 feet long, or if the lot comes to a point at the rear, the rear lot line shall be a line at least 15 feet long, lying wholly within the lot, parallel to the front line. If a zoning lot has two or more front lot lines, the owner or developer shall designate the yard which is to be the rear yard.

LOT LINE, SIDE - a lot line which is neither a front lot line nor a rear lot line.

LOT OF RECORD - a lot which is part of a subdivision recorded in the office of the Recorder of Deeds of Allegheny County or a lot or parcel described by metes and bounds, the description of which has been so recorded.

MANUFACTURING - the mechanical or chemical transformation of materials or substances into new products, or the assembling of component parts of manufactured items if the project is neither a structure or other fixed improvement.

MANUFACTURED HOME - a structure transportable in one or more sections, which in the traveling mode, is 8 body feet or more in width, or 40 body feet or more in length, or when erected on a site, it is 320 or more square feet. It shall be built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and including the plumbing, heating, air conditioning and electrical system contained therein. The term shall include any structure which meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the standard established by the

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Pennsylvania Manufactured Housing Construction and Safety Standards Authorization Act, 35 P.S. §1656.1 *et seq.* (See also, “Mobile Home.”)

MEDICAL FACILITY - a facility for the examination and treatment of ill and afflicted human outpatients, including doctor and dental offices and clinics, provided that patients are not kept overnight except under emergency conditions.

MEDIATION - a voluntary negotiating process in which parties to a dispute mutually select a neutral mediator to assist them in jointly exploring their differences, culminating in a written agreement that the parties themselves create and consider acceptable. [*Ord. 995*]

MIXED USE or OCCUPANCY - the conduct or carrying on of two or more uses of one building.

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

MOBILE HOME LOT - a parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home.

MODULAR UNIT - a unit transported on a removable or nonremovable frame, in which some or all of the component parts are fabricated, formed or assembled off-site in a factory, transported to the building site for assembly, and installed on the building site. The term includes “module,” “prefab,” “factory built,” “panel-built,” and similar terms. The completed unit shall comply with Borough Building Code Standards (Chapter 5) for conventionally constructed units. The modular unit is considered real property.

MULTIFAMILY, MULTI-STORY BUILDING - a structure of over three stories, but not exceeding the height limitation for the district in which it is located, with an elevator as well as stairs to all levels. All units are accessible through an entrance hall shared with other dwelling units. This term shall also include the term “mid-rise apartment.”

MUNICIPALITIES PLANNING CODE (MPC) - the Pennsylvania Municipalities Planning Code, Act 247 of 1968, P.L. 805, as amended, 53 P.S. §10101 *et seq.* [*Ord. 995*]

NO-IMPACT HOME-BASED BUSINESS - a business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use; and which

otherwise complies with the requirements of §27-412. [*Ord. 988*]

NURSING OR CONVALESCENT HOME - an institution for the care of children, the aged or infirm, duly licensed by the Commonwealth to provide intermediate or skilled care, but not including facilities for surgical care or institutions for the care and treatment of mental illness, alcoholism or narcotics addiction.

OCCUPANCY PERMIT - a permit issued by the Zoning Officer before the occupancy of any new or remodeled building, use of land, or change of use, which certifies that all the requirements of this Chapter and other applicable ordinances have been met.

OPEN SPACE - public or private land used for recreation, resource protection, amenity and/or buffers, not including any area of a lot, any part an existing or future street right-of-way, easement of access or areas set aside for public or private utilities, stormwater facilities and easements. [*Ord. 995*]

PARKING SPACE - an off-street space available for parking of a motor vehicle and which has a hard, all-weather surface and is at least an area 9 feet wide by 18 feet long, exclusive of passageways and driveways appurtenant thereto and giving access thereto.

PERIMETER - the outer boundary of a development site or area.

PERMITTED USE - an authorized use allowed by right, which may be granted by the Zoning Officer upon compliance with the requirements of this Chapter. [*Ord. 995*]

PLANNING COMMISSION - the Aspinwall Borough Planning Commission.

PLAT - a map or plan, either preliminary or final, presented to the Borough for approval, indicating the subdivision, consolidation or redivision of land or a land development. [*Ord. 995*]

PORCH - an open roofed or enclosed exterior appendage to a main or accessory structure, projecting from the front, side or rear walls of the structure. For purposes of this Chapter, porches shall include structures and home additions commonly referred to as patios, sunrooms, sunporches, decks and similar structures or construction. Stoops or slabs which extend beyond the front, side or rear walls of a main structure a distance of more than four feet and/or exceed the length of 6 feet along said front, side or rear walls are deemed to be porches by definition. Permanent or temporary awnings which extend beyond 5 feet from the front, side or rear walls of the main structure, or which are partially or wholly supported by posts, poles, spires or similar construction or structures set beyond the walls of the main structure are deemed to be porches by definition.

PRINCIPAL BUILDING - a building or buildings in which is conducted the main or principal use of the lot on which the building is situated.

ZONING

PRINCIPAL USE - the main use of land or structures as distinguished from a subordinate or accessory use.

PRIVATE - of or pertaining to any building, structure, use or activity limited to members of an organization or to other persons specifically invited or permitted where no advertisement or inducement has been made to the general public.

PRIVATE CLUB - an association organized and operated not for profit for persons who are bona fide members paying annual dues, and which owns, hires or leases premises, the use of which premises is restricted to such members and their guests. The affairs and management of such association are conducted by a board of directors, executive committee or similar body chosen by the members at their annual meeting. Food, meals and beverages may be served on such premises, provided adequate dining room space and kitchen facilities are available. Alcoholic beverages may be sold or served to members and their guests; provided, such service is secondary and incidental to the promotion of some other common objective of the organization, and further provided that such sale or service of alcoholic beverages is in compliance with all applicable Federal, State, County and local laws.

PUBLIC - of or pertaining to any building, structure, use or activity belonging to, or affecting, any duly authorized government body.

PUBLIC IMPROVEMENTS - all roads, streets, walkways, gutters, stormwater management facilities, curbs, sewers and other facilities to be dedicated to or maintained by the Borough and comply with the Borough's Construction Standard Details or other public entities. [*Ord. 995*]

PUBLIC NOTICE - notice published once each week for 2 successive weeks in a newspaper of general circulation in the Borough. Such notices shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication no less than 7 days from the date of the hearing. [*Ord. 872*]

PUBLIC UTILITY TRANSMISSION TOWER - a structure, owned or operated by a public utility regulated by the Pennsylvania Public Utility Commission, designed and used to support overhead electricity, telephone and other transmission lines. [*Ord. 938*]

REAR YARD - see "yard, rear." [*Ord. 995*]

RECREATION FACILITY - a building, structure or area designed and equipped for the conduct of sports and/or leisure activities that attract a large number of users. Activities and improvements associated with a recreation facility include: indoor/outdoor swimming pools; indoor/outdoor ice skating rinks; and any other public recreation facilities. [*Ord. 995*]

RESIDENTIAL USE - those activities customarily conducted in living quarters in an urban setting, and excludes such activities as the keeping of livestock or fowl,

activities which involve the storage, visible from off the lot, of motor vehicle parts, machinery or parts, junk or scrap materials.

RETAIL BUSINESS - commercial establishments engaged in selling merchandise directly to customers for personal or household consumption and rendering services incidental to the sale of goods.

ROOMING HOUSE - a residential building other than a hotel in which part or parts are kept, used or held out to be a place where sleeping accommodations are offered for hire for three or more persons.

SCHOOL - any public, private or parochial place of instruction, not including institutions of higher learning, having regular sessions, with regularly employed instructors, which teaches those academic subjects that are fundamental and essential in general education and which provide pre-primary and/or kindergarten through twelfth grade or a vocational school, all meeting the requirements of the Department of Education of the Commonwealth of Pennsylvania, but excluding any privately operated school of trades, vocations, avocations or business. [*Ord. 908*]

SCREEN - decorative fencing or evergreen vegetation maintained for the purpose of concealing from view the area behind such structures or evergreen vegetation.

SENSITIVE NATURAL RESOURCES - unique and environmentally fragile lands that are susceptible to negative ecological impacts created by land development. [*Ord. 995*]

SERVICE BUSINESS - commercial establishment providing wide variety of services for individuals, business and government establishments and other organizations.

SEXUALLY ORIENTED BUSINESS - an adult oriented business. [*Ord. 995*]

SIDE YARD - see "yard, side." [*Ord. 995*]

SIGN - a structure that is arranged, intended, designed or used to advertise, announce or direct; or any device, illustration, description or identification posted, painted or placed in some fashion on a building, structure or any surface for such a purpose. For the purpose of removal, signs shall also include all sign structures.

FREE-STANDING SIGN - a sign on a free-standing frame, mast or poles and not attached to any building. Also known as a ground or detached sign.

OUTDOOR ADVERTISING SIGN - see "Billboard."

TEMPORARY - a sign which offers the premises for sale, rent or development; or advertises the services of professionals or building trades during sale, construction or alteration of the premises upon which the sign is located, or advertises special short-term activities.

ZONING

WALL SIGN - a sign attached to or erected against a wall of a building, with the face horizontally parallel to the building wall.

SIGN AREA - the area defined by the frame or edge of a sign, excluding the necessary supports or uprights on which the sign may be placed. Where there is no frame or edge to the sign, the area shall be defined by a projected, enclosed, four-sided (straight sides) geometric shape which most closely outlines the copy or letters of the said sign. If the sign consists of more than one section or module, all areas shall be totaled.

SIGN COPY AREA - the entire area of the smallest geometric figure which describes the area enclosed by the actual copy, advertising message, announcement or decoration of the sign.

SIGN BACKGROUND AREA - the entire area of a sign on which copy could be placed, as opposed to the copy area, when referred to in connection with a wall sign.

SIGNABLE WALL AREA - the total area of a building face on which a wall sign may be installed. For a one-story building, it shall equal the total area between the lintel bar(s) and the parapet. For a multi-story building, it shall be equal to one of the following options, based upon the selected location for the proposed sign(s): (1) the total area between the lintel bar(s) and the floor level of the floor above; or (2) the total area between the lintel bar(s) of the top floor and the parapet (see illustration). [*Ord. 1040*]

SITE PLAN - a plan of a proposed development or use on which is shown topography, location of all buildings, structures, roads, right-of-ways, boundaries, all essential dimensions and bearings and any other information deemed necessary by the Borough or prescribed by this Chapter.

SKETCH PLAN - an informal plan, not necessarily to exact scale, indicating topographic and other salient existing features of a tract of land and its surroundings and general layout of the proposed subdivision or land development. [*Ord. 995*]

SPECIAL EXCEPTION - approval for a particular use granted by the Zoning Hearing Board, according to the provisions contained in this Chapter.

STEPS - a construction or series of constructions placed as a foot support to effectuate the ascending or descending of a person or persons from one level of elevation to another.

STORY - a story is that part of a building between the surface of any floor and the next floor above it or, in its absence, then the finished ceiling or roof above it. A "split level" story shall be considered a second story if its floor level is 6 feet or more above the level of the line of the finished floor next below it. Any floor under a sloping roof at the top of a building which is more than two feet below the top plate shall be counted as a story; and, if less than 2 feet below the top plate, it shall be counted as a half-story.

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

STREET GRADE - the officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street shall be taken as the street grade.

STREET LINE - the line defining the edge of the legal width of a dedicated street right-of-way.

STREET TYPE - streets may be classified according to the following:

STREET, ARTERIAL - a public street which serves large volumes of local and through traffic and which collects and distributes traffic from collector streets through the region.

STREET COLLECTOR - a public street which, in addition to providing access to abutting lots, intercepts local streets and provides a route for carrying considerable volumes of local traffic to community facilities and arterial streets.

STREET, LOCAL - a street designed to provide access to abutting lots and to discourage through traffic. [*Ord. 872*]

STRUCTURE - any assembled, erected or constructed object having a stationary location on or in land or water, whether or not it is affixed to the land. This includes but is not limited to, gazebos, storage sheds or containers, free standing posts, communications equipment buildings, communications towers, pillars and similar objects. [*Ord. 938*]

SUBDIVISION - the division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted. [*Ord. 1001*]

SWIMMING POOL - a body of water in an artificial or semi-artificial receptacle or other container, whether located in or out of doors, used as a recreational facility for swimming, bathing or wading and having a depth of 24 inches or more. A swimming pool shall be deemed to include all building, equipment and appurtenances incidental to such a pool.

TOWNHOUSE DWELLINGS - a structure consisting of a series from three to twelve attached dwelling units, separated from one another by continuous vertical walls without opening from basement to roof.

ZONING

TRAILER - a vehicular portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes having a body width not exceeding 8 feet.

USE - the specific purpose of which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained. The term “permitted use” or its equivalent shall not be deemed to include any nonconforming use.

VARIANCE - permissive waivers from the terms of this Chapter, granted by the Zoning Hearing Board in cases where a literal enforcement of provisions of this Chapter will result in unnecessary hardship, due to special conditions that are not self-imposed, and are determined not to be contrary to the public interest and the spirit and intent of this Chapter, and as otherwise set forth in the Municipalities Planning Code. [*Ord. 995*]

WHOLESALE BUSINESS - commercial establishment primarily engaged in selling merchandise to retailers; to industrial, commercial, educational, farm or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for, or selling merchandise to, such persons or companies.

YARD - an open space on a lot which is unoccupied and unobstructed from the ground upward, except as otherwise provided herein (see illustrations).

YARD, FRONT - a yard extending along the full length of a front lot line and back to the required building line. On a corner lot, each yard that abuts a front lot line shall be considered a front yard.

YARD, REAR - the required open space extending from the rear of the main building to the rear lot line (not necessarily a street line) across the entire width of the lot.

YARD, SIDE - the required open space between the side (face) of any building and the side lot line, extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed as a side line.

ZONING HEARING BOARD - the Zoning Hearing Board of Aspinwall Borough.

ZONING OFFICER - the official designated by Borough Council to administer and enforce this Chapter.

ZONING PERMIT - a permit, issued by the Zoning Officer stating that the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements of this Chapter for the zoning district in which it is located or is to be located.

(*Ord. 775, 6/15/1983, §140-202; as amended by Ord. 806, 6/11/1986; by Ord. 854, 9/13/1989, §1; by Ord. 872, 5/22/1991, §1; by Ord. 908, 7/13/1995, §140-202; by Ord. 938, 10/14/1998, §§1,2; by Ord. 949, 4/14/1999, §1; by Ord. 988, 11/13/2002, §1; by Ord. 995, 12/10/2003; by Ord. 1001, 10/13/2001, §1; and by Ord. 1040, 5/12/2010, §1*)

§27-203. Fair Housing Act.

Notwithstanding any definition or any other provision of this Chapter, no definition or other provision of this Chapter shall be construed, applied or interpreted in a fashion which violates the Federal Fair Housing Act, as amended and as interpreted by any court of competent and binding jurisdiction.

(Ord. 775, 6/15/1983, §140-203; as added by Ord. 908, 7/13/1995, §140-203)

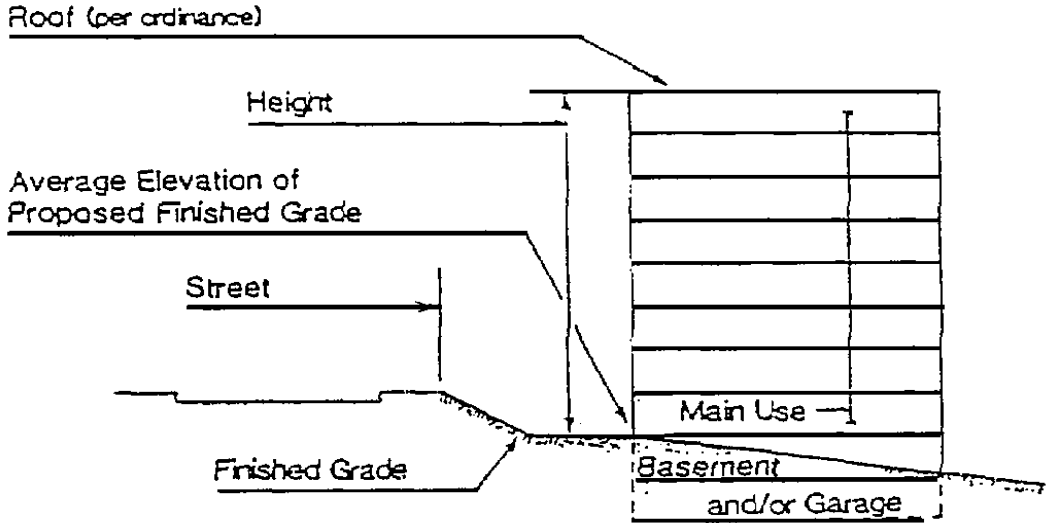
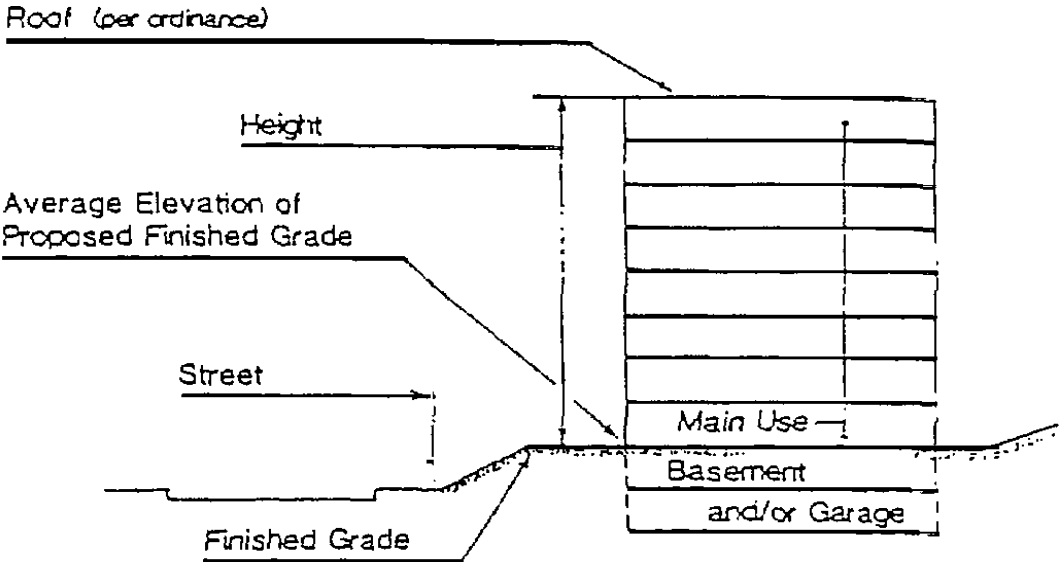


Diagram 1 - BUILDING HEIGHT MEASUREMENT

ZONING

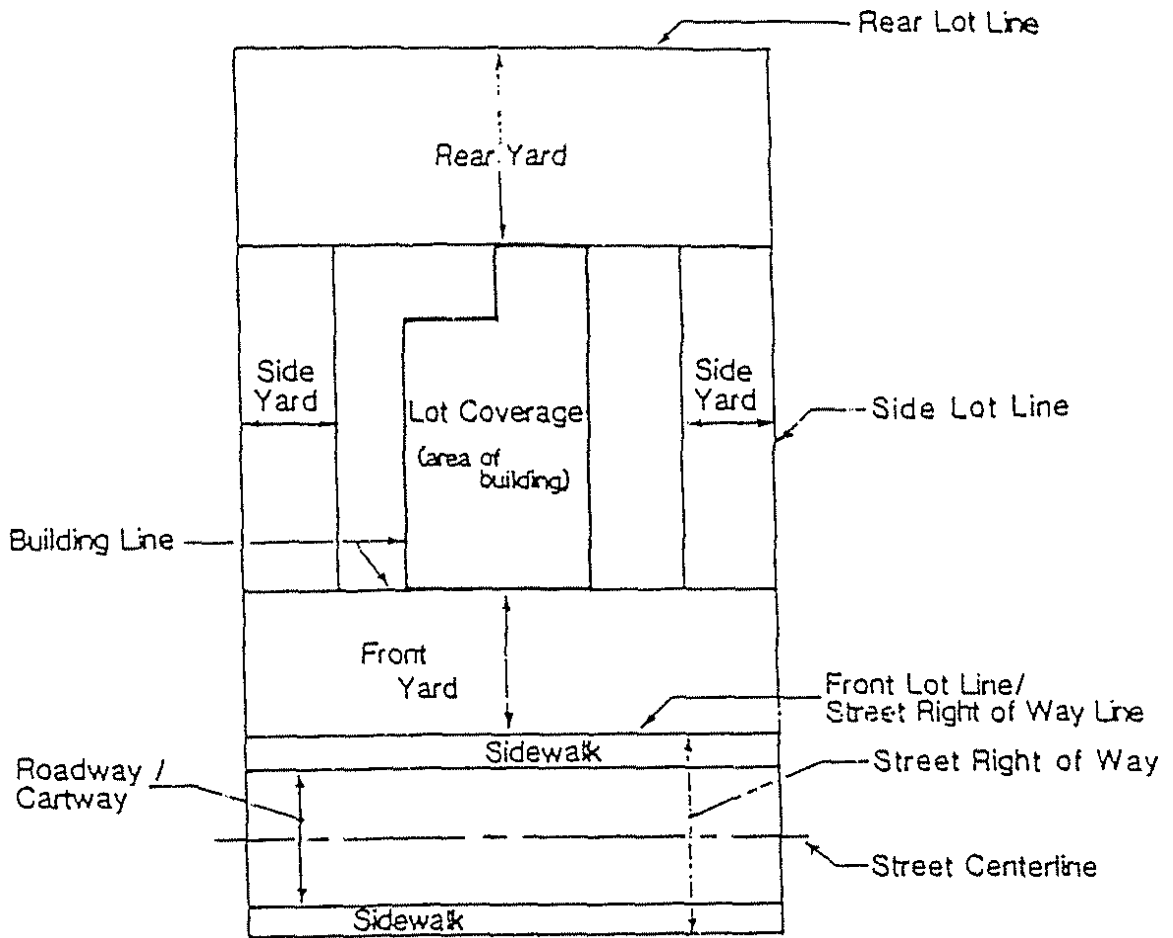


Diagram 2 - AREA & BULK REGULATION TERMS

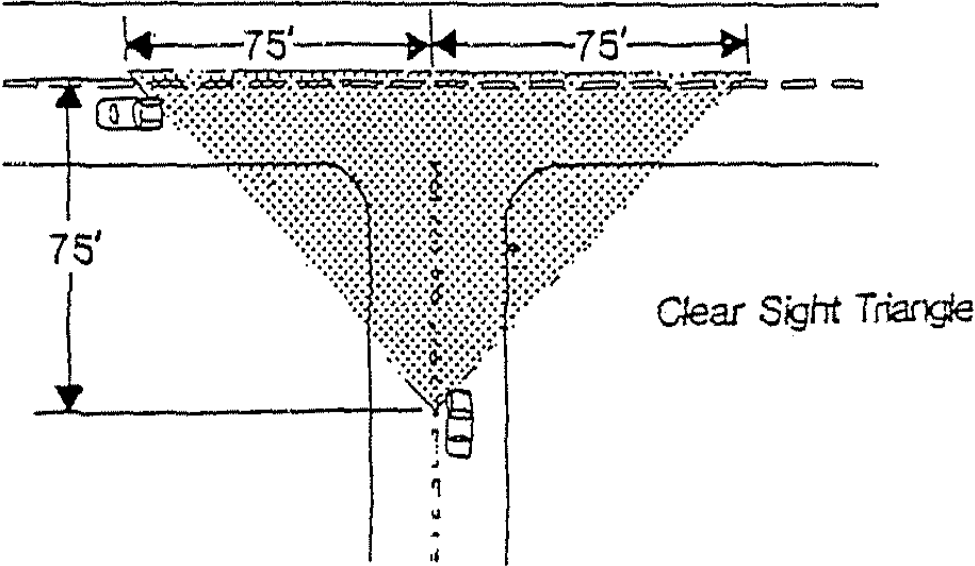
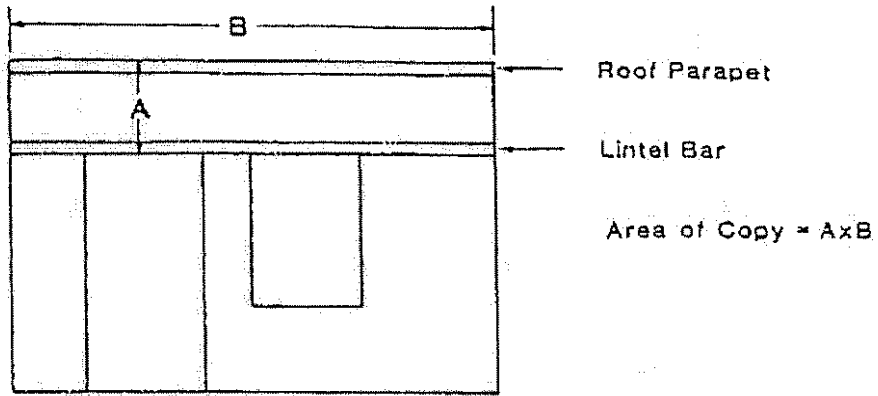
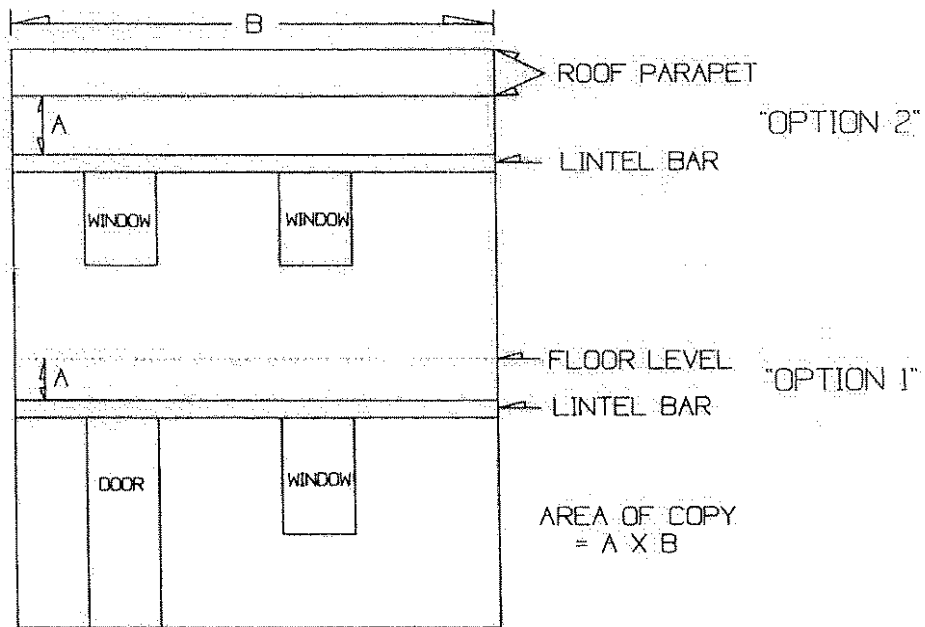


Diagram 3 - CLEAR SIGHT TRIANGLE

ZONING



Signable Wall Area - 1 Story Building



SIGNABLE WALL AREA
MULTI-STORY BUILDING

Diagram 4 - SIGN TERMS

PART 3

SCHEDULE OF DISTRICT REGULATIONS

§27-301. Establishment of District Classifications.

The Borough of Aspinwall is hereby divided into the following zoning districts:

AR-1 Single-Family Residential
AR-2 Residential
AR-3 Single and Multiple Family Residential
AR-4 Multifamily Residential
AR-S Special Residential
AC-1 Community Business District
AC-2 General Commercial
AL-1 Limited Industrial
A-CD Conservation District

(Ord. 775, 6/15/1983, §140-301)

§27-302. Zoning District Map and Boundaries.

1. The boundaries of the various zoning districts are hereby established on the map entitled "Official Zoning Map" on file in the office(s) of the Zoning Officer and the Borough Manager. This map with all explanatory matter thereon is hereby made a part of this Chapter. The Official Zoning Map shall be dated and shall carry the signature of the President of the Borough Council and the Borough Manager certifying that it is the true map adopted by the Council, and the map shall be sealed with the official Borough Seal. All amendments shall be identified on the map and similarly certified.
2. The boundaries between districts are, unless otherwise indicated, either the centerline of streets or such lines extended, or parallel lines thereto, or property lines, or other physical boundaries, and delineations. Where streets, property lines, or other physical boundaries and delineations are not applicable, boundaries shall be determined by scale shown on the Official Zoning Map.
3. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or in other circumstances not specifically covered above, the Zoning Hearing Board shall interpret the district boundaries.
4. In the event that a street, alley or other way shown on the Zoning District Map is vacated, the property formerly in said street right-of-way shall be included within the zoning district of the adjoining property on either side of said vacated street or way. Where said street forms a zoning district boundary, the new district boundary shall be the new property line created by the former centerline of said vacated street.

ZONING

(*Ord. 775, 6/15/1983, §140-302*)

§27-303. AR-1 Single Family Residential Districts.

1. **Purpose.** An AR-1 District is intended to be principally single and two family homes on individual lots with customary residential accessory uses. Certain residentially-related uses will be permitted as conditional uses provided they meet the criteria contained in this Chapter.
2. **Permitted Uses.**
 - A. Single-family detached dwellings.
 - B. Two family detached dwellings.
 - C. Residential accessory uses, such as garages, gardens, private swimming pools.
 - D. No-impact home-based businesses, as permitted by Part 4 of this Chapter. [*Ord. 988*]
 - E. Signs, as permitted by Part 4 of this Chapter.
 - F. Communications antenna mounted on an existing public utility transmission tower, building or other structure, subject to the provisions of §27-404(6). [*Ord. 938*]

[*Ord. 908*]

3. **Conditional Uses.** The following uses are subject to the conditions set forth in Part 4 of this Chapter:
 - A. Schools (excluding dormitories for students or faculty).
 - B. Churches.
 - C. In-home day care facilities, providing care for three to six children and which comply with this Chapter's definition of home occupation.

[*Ord. 939*]

4. **Area and Bulk Regulations; Permitted and Conditional Uses.**
 - A. **Minimum Lot Area.**
 - (1) Single-family dwelling - 5,000 feet.
 - (2) Two family dwelling - 2,750 square feet per dwelling.

- (3) School, church or place of worship - 10,000 square feet per use.

B. Minimum Yard Requirements.

- (1) Front yard - see §27-405 of this Chapter.

- (2) Side yard:

Single-family - two yards totaling 8 feet, but none less than 2½ feet.

Two family - two yards totaling 10 feet, but none less than 3 feet.

Corner Lot - on a corner lot for a single or two family dwelling, the minimum side yard abutting a public street shall be 10 feet. [*Ord. 995*]

Other uses - two side yards, each 15 feet, for any principal structure or use.

- (3) Rear yard - 15 %of the total lot depth but not more than 25 feet.

C. Maximum Lot Coverage. 40 percent for all uses.

D. Maximum Height. 35 feet or 2½ stories above mean ground level, as defined by this Chapter, for any principal structure and 15 feet for any accessory structure.

5. Off-Street Parking Requirements.

- A. All uses - as required by §27-409 of this Chapter. [*Ord. 887*]

6. Site plan Review. Reserved.

(*Ord. 775, 6/15/1983, §140-303; as amended by Ord. 854, 9/13/1989, §2; by Ord. 887, 8/12/1992, §303; by Ord. 908, 7/13/1995, §140-303; by Ord. 938, 10/14/1998, §3; by Ord. 939, 10/14/1998, §1A; by Ord. 988, 11/13/2002, §2*)

§27-304. AR-2 Residential Districts.

- 1. **Purpose.** This district provides for single and two family residential units on smaller lots than AR-1 districts. Also, it includes, as conditional uses, multifamily dwellings and certain specialized housing types, such as group residences, where these can be developed compatibly with the existing neighborhood and adjacent residences.

2. Permitted Uses.

- A. Single-family detached dwellings.

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- B. Two family detached dwellings.
- C. Residential accessory uses, such as garages, gardens, private swimming pools.
- D. No-impact home-based businesses, as permitted by Part 4 of this Chapter. [Ord. 988]
- E. Signs, as permitted by Part 4 of this Chapter.
- F. Communications antenna mounted on an existing public utility transmission tower, building or other structure, subject to the provisions of §27-404(6). [Ord. 938]

[Ord. 908]

3. **Conditional Uses.**

- A. Schools (excluding dormitories for students or faculty).
- B. Churches.
- C. Day care centers, as defined by this Chapter; in-house day care facilities, providing care for three to six children and which comply with Chapter's definition of "home occupation."
- D. Multifamily dwellings (three to six units) in new or converted structures.

[Ord. 939]

4. **Area and Bulk Regulations; Permitted and Conditional Uses.**

A. **Minimum Lot Area.**

- (1) Single-family - 4,000 square feet.
- (2) Two family - 2,000 square feet/unit.
- (3) Multifamily - 2,000 square feet/unit.
- (4) Group residences, family boarding home - 5,000 square feet.
- (5) School, church, nursing home, or convalescent home, institutional facility - 10,000 square feet.

[Ord. 806]

B. **Minimum Yard Requirements.**

(1) Front yard - see §27-405 of this Chapter.

(2) Side yard:

Single and two family residences - two side yards totaling 8 feet; provided, no side yard shall be less than 2½ feet and that no principal structure may be closer than 5 feet of any adjacent structure. On a corner lot, the minimum side yard abutting a street shall be 10 feet.

Multifamily and other uses - 10 feet each side yard.

(3) **Rear Yard.** 15 percent of the total lot depth but not more than 25 feet.

C. **Maximum Lot Coverage.** 50 percent for all uses.

D. **Maximum Height.**

(1) Structures with one to four dwelling units - 35 feet or 2½ stories above mean ground level.

(2) Multifamily dwellings (over four units), other uses - 45 feet or 4 stories above mean ground level.

(3) Accessory structure - 15 feet.

[*Ord. 806*]

5. **Off-Street Parking Requirements**

A. All uses - as specified by §27-409 of this Chapter. [*Ord. 887*]

6. Reserved.

(*Ord. 775, 6/15/1983, §140-304; as amended by Ord. 806, 6/11/1986; by Ord. 854, 9/13/1989, §3; by Ord. 887, 8/12/1992, §304.5; by Ord. 908, 7/13/1995, §140-304; by Ord. 938, 10/14/1998, §3; by Ord. 939, 10/14/1998, §1B; by Ord. 988, 11/13/2002, §4*)

§27-305. **AR-3 Single and Multiple Family Districts.**

1. **Purpose.** This district is similar to the AR-2 District except that residential uses are allowed at higher densities, consistent with the existing development pattern.

2. **Permitted Uses.**

A. Single-family detached dwellings.

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- B. Two family detached dwellings.
- C. Residential accessory uses, such as garages, gardens, private swimming pools.
- D. No-impact home-based businesses, as permitted by Part 4 of this Chapter. [Ord. 988]
- E. Signs, as permitted by Part 4 of this Chapter.
- F. Communications antenna mounted on an existing public utility transmission tower, building or other structure, subject to the provisions of §27-404(6). [Ord. 938]

[Ord. 908]

3. **Conditional Uses.**

- A. Schools (excluding dormitories for students or faculty).
- B. Churches.
- C. Day care centers, as defined by this Chapter; in-house day care facilities, providing care for three to six children and which comply with this Chapter's definition of home occupation.
- D. Recreational facilities or uses, including parks, available for use by the general public.
- E. Funeral home.
- F. Multifamily dwellings (three to six units) in new or converted structures.

[Ord. 939]

4. **Area and Bulk Regulations; Permitted and Conditional Uses.**

A. **Minimum Lot Area.**

- (1) Single family and two family - 2,500 square feet/unit.
- (2) Multifamily - 1,250 square feet per unit for a conversion of an existing structure; 1,500 square feet per unit for a new structure.
- (3) Other uses - 8,000 square feet.

B. **Minimum Yard Requirements.**

- (1) Front yard - see §27-405 of this Chapter.

(2) Side yard:

Single-family and two family - two side yards totaling 8 feet; provided, that no side yard shall be less than 2½ feet and that no principal structure may be closer than 5 feet of any adjacent structure.

On a corner lot, the minimum side yard abutting a street shall be 10 feet.

Multifamily and other uses - 5 feet each side yard.

(3) Rear yard - 15 feet for any use.

C. **Maximum Lot Coverage.** 50 percent for all uses.

D. **Maximum Height.**

(1) Structures with one to four dwelling units - 35 feet or 2½ stories above mean ground level.

(2) Multifamily dwellings (over four units) and other uses - 45 feet or four stories above mean ground level.

(3) Accessory structure - 15 feet.

[*Ord. 806*]

5. **Off-Street Parking Requirements.**

A. All uses - as specified in §27-409 of this Chapter. [*Ord. 887*]

6. Reserved.

(*Ord. 775, 6/15/1983, §140-305; as amended by Ord. 806, 6/11/1986; by Ord. 854, 9/13/1989, §4; by Ord. 887, 8/12/1992, §305.5; by Ord. 908, 7/13/1995, §305; by Ord. 938, 10/14/1998, §3; by Ord. 939, 10/14/1998, §1C; and by Ord. 988, 11/13/2002, §5*)

§27-306. AR-4 - Multifamily Residential Districts

1. **Purpose.** This district denotes suitable areas for higher density multifamily dwellings, including mid-rise buildings. Dwellings in either new or converted buildings are permitted provided they meet the site standards contained in this Chapter.

2. **Permitted Uses.**

A. Single-family detached dwellings.

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- B. Two family detached dwellings.
- C. Garden dwellings.
- D. Multifamily, multistory buildings (not to exceed five stories).
- E. Residential accessory uses, such as parking garages, private pools, management offices for multifamily complexes.
- F. No-impact home-based businesses, as permitted by Part 4 of this Chapter. [Ord. 988]
- G. Signs, as permitted by Part 4 of this Chapter.
- H. Communications antenna mounted on an existing public utility transmission tower, building or other structure, subject to the provisions of §27-404(6). [Ord. 938]

[Ord. 908]

3. **Conditional Uses.**

- A. Schools (excluding dormitories for students or faculty).
- B. Recreational facilities or uses, including parks, available for use by the general public.

[Ord. 939]

4. **Area and Bulk Regulations; Permitted and Conditional Uses.**

A. **Minimum Lot Area.**

- (1) Single-family and two family - 4,000 square feet/unit.
- (2) Multifamily - 1,250 square feet/unit.
- (3) Other uses (excluding public recreation) - 5,000 square feet.

B. **Minimum Yard Requirements.**

- (1) Front yard, single-family and two family - 20 feet; multifamily and other uses - 30 feet.
- (2) Side yard:

Single-family and two family - two yards totaling 8 feet; provided, that no principal structure is within 5 feet of any structure on an adjacent property.

Multifamily, other uses - 10 feet each side yard.

(3) Rear yard:

Single-family and two family - 15% of lot depth but no more than 25 feet.

Multifamily - 25 feet.

C. **Maximum Lot Coverage.** 50 percent for all uses.

D. **Maximum Height (As Measured From Mean Ground Level).**

(1) Single family and two family townhouses - 35 feet or 2½ stories.

(2) Garden, multistory dwellings, other uses - 50 feet or five stories.

(3) Accessory structures - 15 feet.

5. **Off-Street Parking Requirements.**

A. All uses - as specified by §27-409 of this Chapter. [*Ord. 887*]

6. Reserved.

(*Ord. 775, 6/15/1983, §140-306; as amended by Ord. 854, 9/13/1989, §5; by Ord. 887, 8/12/1992, §306.5; by Ord. 908, 7/13/1995, §306; by Ord. 938, 10/14/1998, §3; by Ord. 939, 10/14/1998, §1D; by Ord. 988, 11/13/2002, §6*)

§27-307. AR-S Special Residential District.

1. **Purpose.** This district is designed to provide for unified residential developments which may include a variety of housing types constructed in accordance with an integrated plan for the site. The purpose of these developments is to encourage sound, creative design and site planning, to assure that land developments are compatible with the natural features of the site, and to preserve and protect open space and areas with natural environmental constraints (e.g., steep slopes, landslide-prone soils, stream valleys).

2. **Permitted Uses.**

A. Existing single-family and two family dwellings.

B. New single and two family detached dwellings, as part of unified development.

C. Townhouses, as part of unified development.

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- D. Garden dwellings, as part of unified development.
- E. Manufactured (mobile) homes and parks, as part of unified development.
- F. Residential accessory uses, such as parking, private pools, recreation facilities to serve unified complex.
- G. No-impact home-based businesses, as permitted by Part 4 of this Chapter. [Ord. 988]
- H. Signs, as permitted by Part 4 of this Chapter.
- I. Communications antenna mounted on an existing public utility transmission tower, building or other structure, subject to the provisions of §27-404(6). [Ord. 938]

[Ord. 908]

3. **Conditional Uses.** None. [Ord. 908]

4. **Area and Bulk Regulations; Permitted and Conditional Uses.**

A. **Minimum Lot Area.**

- (1) Minimum site requirement - 2.0 contiguous acres.
- (2) Lot area per dwelling unit - 1,000 square feet per unit.

B. **Minimum Yard Requirements.**

- (1) Minimum yard or setback requirements are not specified for individual uses/structures within a unified development, except that no structure/use shall be located within 25 feet of the property boundaries. All yards and setbacks shall comply with those shown on the approved final site plan for the development.
- (2) Spacing between buildings or groups of buildings should be designed to preserve visual and auditory privacy, adequate light and air exposure, and accessibility by emergency vehicles.

C. **Maximum Site Coverage.**

- (1) A maximum of 80% of the total site area may be devoted to residential uses including principal and accessory structures, streets, parking areas, and private open spaces abutting residences (e.g., patios, courts).
- (2) A minimum of 20% of the total site area must be devoted to open space and/or open-air recreation uses, which may include sensitive

environmental areas (slopes, etc.) preserved as part of the development.

- D. **Maximum Height (As Measured From Mean Ground Level).**
 - (1) Principal structures - 45 feet.
 - (2) Accessory structures - 15 feet.
- 5. **Off-Street Parking Requirements.**
 - A. All uses - as specified by §27-409 of this Chapter. [*Ord. 887*]
- 6. Reserved.
- 7. **Other Development Standards.**
 - A. **Screening.** Screens shall be provided along perimeter lines of the unified development site including public rights-of-way. Such screens shall be one, or a combination, of the following:
 - (1) A continuous planted strip of at least 4 feet in width and not less than 6 feet in height, and of such species and size of plants so as to provide an effective year-round visual screen within 3 years of planting.
 - (2) Natural or artificial land forms, including natural slopes and wooded areas, may be used to achieve visual screening, provided such areas are preserved from future development by easement, deed restriction, covenant or similar measure.
 - (3) Decorative fencing may be used as a screen along public rights-of-way.
 - (4) The maintenance plan for common open space and facilities in the development shall include provisions for the continuing maintenance of all planted screens and fencing. If any plant dies within the 1 year of planting, it shall be replaced.
 - (5) Clear sight triangles, as specified by this Chapter, shall be maintained.
 - (6) Additional screening may be required during the site plan review where necessary to shield adjacent lots from onsite lighting, headlights and otherwise to reduce the visual encroachments of multiple dwellings.
 - B. **Street and Parking Areas.**

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- (1) Off-street parking areas shall be in accordance with the provisions of §27-409 of this Chapter.
 - (2) The construction of roads, parking areas and pedestrian ways, whether or not they are to be dedicated to the Borough, shall conform to the provisions of Chapter 1 of this Code. However, the Planning Commission, during the site plan review, may waive or modify certain standards where it finds that such specifications are not consistent with the site or overall design and that such modifications are not inconsistent with the interests of the entire Borough.
- C. **Stormwater Management and Erosion/Sedimentation Control.** Controls to prevent erosion/sedimentation during and after construction and to provide safe stormwater management shall comply with Part 4 of this Chapter.
- D. **Common Open Space, Improvements and Facilities.**
- (1) Common open space must be appropriate to the scale and character of the development considering its size, density, anticipated population, topography and types of dwelling unit and consistent with the minimum requirements of subsection (D)(3), below.
 - (2) It must be suitably improved for its intended use, but open space containing natural features worthy of preservation may be left unimproved. Any structures or improvements which are added shall conserve and enhance the amenities of the open spaces and be properly related to their topography and natural condition.
 - (3) All common open space and recreation areas must be conveyed in one of the following ways, as approved by the Borough: (a) in part or totally to the Borough; or (b) in part or totally to an organization for ownership and maintenance according to applicable state statutes.
- E. **Maintenance of Common Open Space and Facilities.**
- (1) In cases where the Borough will not be accepting dedications of streets, sidewalks, utilities, drainage facilities, recreation areas or open spaces, or other common areas, the land owner shall provide for a homeowners organization, trust or another mechanism for ownership and continuing maintenance. The owner shall submit a plan describing the proposed method, its organization, its powers, rights, dues, responsibilities in regard to the ownership and continuing maintenance of common facilities and open space. This plan must be approved as part of the final site plan.
 - (2) Whether common facilities and open spaces are to be owned privately or in trust, or dedicated to the Borough, the landowner shall be required to post financial security to guarantee the structural

integrity and functioning of such common areas. Such financial security shall be in accordance with the Pennsylvania Municipalities Planning Code for guaranteeing improvements for subdivisions and land developments. The term for the security shall be 18 months from the date of acceptance of ownership and shall equal to 14 percent of the actual cost of installation of the improvements, facilities and open spaces.

8. **Manufactured (or Mobile) Home/Parks within Unified Development.** Manufactured homes within park clusters may be included within a unified development, provided the total unified development includes a mix of other conventional housing types and manufactured units do not equal more than 30 percent of all dwelling units in the total unified development. Manufactured homes/parks shall comply with the following standards, in addition to other applicable provisions of this Part and other portions or this Chapter.
- A. A manufactured home area shall have access from a street or highway capable of handling the individual mobile units without impairing the normal traffic operations of the street or highway.
 - B. Area shall be set aside for common open space, including recreation areas, community buildings, storage facilities for residents, laundry facilities, management offices and storage of maintenance equipment.
 - C. All roads and parking areas shall be improved with an all-weather, dust-free surface. Roads shall be designed to meet anticipated traffic loads and shall have a minimum cartway width of 28 feet.
 - D. Planted and/or visual screening area shall be provided to separate it from other portions of the development and from abutting properties.
 - E. Landscaping and planting shall be provided throughout the mobile home area at a ratio of at least two deciduous trees and four deciduous and/or evergreen shrubs per mobile home.
 - F. No individual mobile home shall be closer than 15 feet to any street right-of-way or to any property line of the development. Nor shall any unit be located within a 100 year floodplain as designated on the Zoning Map.
 - G. The following lot area and setback requirements shall apply for individual home lots:
 - (1) Lot area - 5,000 square feet.
 - (2) No mobile home unit shall be sited to be within 15 feet of any other unit or accessory structure.
 - H. An enclosure of compatible design and material shall be erected around the entire base of each mobile home. Such enclosure shall provide sufficient

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ventilation to inhibit decay and deterioration of the structure. The hitch which is employed for the normal movement of the unit shall be removed.

- I. No mobile home shall be erected on a mobile home lot except upon a mobile home pad. Each mobile home unit shall have its own separate pad.
 - (1) Each mobile home pad shall be at least equal in length and width to the dimensions of the mobile home to be placed on the pad.
 - (2) The pad, at least 6 inches in thickness, shall be constructed from either concrete, asphalt concrete or other material adequate to support the mobile home and to prevent abnormal settling or heaving under the weight of the home. In order to prevent wind overturn and rocking, the corners of the mobile homes shall be secured with at least six tiedowns such as concrete "dead men," screw augers, arrowhead anchors, or other devices suitable to withstand a tension of at least 2,800 pounds.
 - (3) Each mobile home shall be set level on sturdy and substantial supports.
- J. Two off-street parking spaces shall be provided for each mobile home lot. Parking areas shall comply with §27-409 of this Chapter.
- K. The design, installation and construction and maintenance of the storage and handling of liquified petroleum gases shall conform to the Act of Pennsylvania Legislature 1951, December 27, P.L. 1793, as it may be amended, and to all applicable regulations of the Pennsylvania Department of Labor and Industry.

(Ord. 775, 6/15/1983, §140-307; as amended by Ord. 887, 8/12/1992, §307.5; by Ord. 908, 7/13/1995, §307; by Ord. 938, 10/14/1998, §3; by Ord. 988, 11/13/2002, §7; by Ord. 995, 12/10/2003)

§27-308. AC-1 Community Business Districts.

1. **Purpose.** This district provides for a broad range of retail and service commercial uses and offices typical of a community's central business area. Businesses in this district should be compatible in terms of general market and operating characteristics.
2. **Permitted Uses.**
 - A. Shopper's convenience and general retail uses, such as food, drugs, bakery, apparel, hardware, appliances and furniture, jewelry, special shops.
 - B. Personal services such as barber and beauty shops, laundry and cleaning (no processing on premises), shop repair.

- C. Business support services, including printing, copying, computer and data processing. [*Ord. 1001*]
- D. Eating and drinking establishments.
- E. Funeral home.
- F. Private school or day care center for pre-primary age children.
- G. Private school for dancing, music or similar art or craft instruction.
- H. Private clubs and fraternal organizations.
- I. Recreation facilities or uses, including parks, available for use by the general public.
- J. Municipal office building and similar uses.
- K. Customary accessory uses, such as parking, enclosed storage, to permitted uses.
- L. Private stand-alone parking lot.
- M. Communications antenna mounted on an existing public utility transmission tower, building or other structure, subject to the provisions of §27-404(6). [*Ord. 938*]

[*Ord. 939*]

3. Conditional Uses

- A. Multifamily dwellings as accessory to a commercial structure.
- B. Commercial recreation uses, such as bowling, racquet sports, exercise clubs.
- C. Medical, dental offices or clinics.
- D. Business and professional offices. [*Ord. 1001*]
- E. Financial institutions and services. [*Ord. 1001*]
- F. Insurance and real estate offices. [*Ord. 1001*]
- G. Essential services.
- H. Any permitted or conditional use which does not meet the off-street parking requirements of §§27-409 and 27-410 of this Chapter, provided the requirements of §§27-503 and 27-504(H) of this Chapter are met.

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[*Ord. 908*]

4. **Area and Bulk Regulations; Permitted and Conditional Uses.**

- A. Minimum lot area - 2,500 square feet.
- B. Minimum yard requirements - no required front or side yard. Rear yard shall be 10 feet. Provided, however, that in the block of Center Avenue bounded by Commercial Avenue and First Street, the minimum yard requirements for front yards shall be 20 feet. [*Ord. 804*]
- C. Maximum lot coverage - 70%.
- D. Maximum height - 40 feet or four stories above mean ground level, as defined by this Chapter.

5. **Off-Street Parking and Loading Requirements.**

- A. All uses - as required by §§27-409 and 27-410 of this Chapter. [*Ord. 847*]

6. Reserved.

(*Ord. 775*, 6/15/1983, §140-308; as amended by *Ord. 804*, 3/12/1986, §1; by *Ord. 847*, 4/12/1989, §308.5; by *Ord. 908*, 7/13/1995, §308; by *Ord. 938*, 10/14/1998, §3; by *Ord. 939*, 10/14/1998, §1E; and by *Ord. 1001*, 10/13/20041, §2)

§27-309. AC-2 General Commercial Districts.

- 1. **Purpose.** This district designates locations where, in addition to shopper's goods, personal and business services, other types of commercial uses, such as building supplies or vehicular sales, are also appropriate. Uses in this district usually require direct automobile access, customer parking and/or loading and frequently larger lots and buildings than uses in AC-1 District.
- 2. **Permitted Uses.**
 - A. Any permitted use in the AC-1 District, as listed in §27-308, unless otherwise stated in this Section. [*Ord. 1001*]
 - B. Commercial recreation uses, such as bowling, racquet sports, health or exercise clubs.
 - C. Retail building materials, plumbing, heating and electrical sales and service.
 - D. Medical supplies and equipment sales and service.
 - E. Contractor's office (excluding exterior storage of materials and equipment).

- F. Communications antenna mounted on an existing public utility transmission tower, building or other structure, subject to the provisions of §27-404(6). [Ord. 938]

[Ord. 1001]

3. **Conditional Uses.**

- A. Multifamily dwellings as accessory to a commercial structure.
- B. Gasoline service stations, automotive repair and car washes; provided, that it is not located within 1,000 feet of a similar facility.
- C. Amusement arcades, as defined by this Chapter.
- D. Veterinary office and animal hospital.
- E. Business, professional, medical/dental offices.
- F. Automobile, mobile home, marine equipment and supplies sales.
- G. Financial institutions and services. [Ord. 1001]
- H. Insurance and real estate offices. [Ord. 1001]
- I. Essential services.
- J. Any permitted or conditional use which does not meet the off-street parking requirements of §§27-409 and 27-410 of this Chapter; provided, the requirements of §§27-503 and 27-504(H) of this Chapter are met.

[Ord. 908]

4. **Area and Bulk Regulations; Permitted and Conditional Uses.**

- A. Minimum lot area - 3,000 square feet.
- B. **Minimum Yard Requirements.**
 - (1) Front yard - 20 feet for any new or reconstructed use.
 - (2) Side yard - none.
 - (3) Rear yard - 10 feet.
- C. Maximum lot coverage - 70 percent.
- D. Maximum height - 30 feet above mean ground level.

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5. **Off-Street Parking and Loading Requirements.**

A. All uses - as required by §§27-409 and 27-410 of this Chapter. [*Ord. 847*]

6. Reserved.

(*Ord. 775*, 6/15/1983, §140-309; as amended by *Ord. 847*, 4/12/1989, §309.5; by *Ord. 908*, 7/13/1995, §309; by *Ord. 938*, 10/14/1998, §3; and by *Ord. 1001*, 10/13/2004; §3)

§27-310. **AI-1 Limited Industrial Districts.**

1. **Purpose.** This district identifies suitable areas for new and expanded industrial uses which comply with the performance standards of this Chapter, and which are consistent with the predominately residential development in Aspinwall Borough.

2. **Permitted Uses.**

- A. Industrial uses, including production, processing, testing, repair or servicing of: apparel and other textile products, furniture and fixtures, paper and allied products, printing and publishing, rubber and plastics, leather and leather products, transportation equipment, instruments and related products, jewelry, musical instruments, toys and sporting goods, pencils, pens and art supplies, signs and advertising displays and burial caskets.
- B. Building supplies and equipment.
- C. Contractor's office and equipment storage.
- D. Wholesale and distribution including warehousing, parcel delivery, storage and beverage bottling.
- E. Vehicular repair establishment.
- F. Animal hospital and kennel.
- G. Railway facilities and terminals.
- H. Municipal uses, such as recreational facilities or uses, including parks, available for use by the general public, municipal water wells, municipal water and sewage treatment facilities, municipal storage of road and road treatment supplies and related equipment, municipal office buildings and other similar uses.
- I. Essential services as defined by this Chapter.
- J. Customary accessory uses such as business offices, storage areas, snack bar or cafeteria.

- K. Communications antenna mounted on an existing public utility transmission tower, building or other structure, subject to the provisions of §27-404(6). [Ord. 938]

[Ord. 908]

- 3. **Conditional Uses.** The following uses are permitted subject to conditions and performance standards contained in this Chapter:
 - A. Manufacturing, fabricating, processing, servicing of food and kindred products, stone, clay, glass and concrete products, fabricated metal products, machinery, electrical and electronic machinery, equipment and supplies and transportation equipment.
 - B. Garages for storage of motor vehicles.
 - C. Private stand-alone parking lot.
 - D. Uses not specifically listed as permitted or conditional uses in any zoning district, provided the requirements of §§27-503 and 27-504(I) of this Chapter are met.
 - E. Communications tower, including tower-mounted communications antenna and any related communications equipment building, subject to the provisions of §§27-404(6) and 27-504(J). [Ord. 938]

[Ord. 908]

- F. Adult Oriented Businesses, subject to the provisions of §27-504.K.
- 4. **Area and Bulk Regulations; Permitted and Conditional Uses.**
 - A. Minimum lot area - 6,000 square feet.
 - B. **Minimum Yard Requirements.**
 - (1) Front yard - 25 feet.
 - (2) Side yard - 10 feet or 20 feet if abutting a residential or commercial zone or a public or private recreation facility.
 - (3) Rear yard - 10 feet.
 - C. Maximum lot coverage - 60%.
 - D. Maximum height - 45 feet above mean ground level.
- 5. **Off-Street Parking and Loading Requirements.** As specified by §§27-409 and 27-410 of this Chapter.

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6. Other Standards.

- A. All operations, activities and storage shall be conducted wholly inside a building, or buildings, except that storage may be maintained outside a building in a side or rear yard if such storage area is separated from public streets or other property by screening (refer to §27-407 for screening requirements).
- B. All premises shall be furnished with all-weather, hard-surface walks, parking and loading areas, and the grounds shall be planted and landscaped.
- C. No building shall be used for residential purposes, except that a watchman or custodian may reside on the premises.

(*Ord. 775*, 6/15/1983, §140-310; as amended by *Ord. 908*, 7/13/1995, §310; by *Ord. 938*, 10/14/1998, §§3,4; by *Ord. 939*, 10/14/1998, §1F; by *Ord. 949*, 4/14/1999, §2)

§27-311. A-CD Conservation Districts

1. **Purpose.** The district includes natural and environmentally sensitive areas, such as floodplains or steep slopes, which require special regulations to assure their protection, preservation and/or safe use.
2. **Permitted Uses.**
 - A. Municipal uses, such as recreational facilities or uses, including parks, available for use by the general public, municipal water wells, municipal water and sewage treatment facilities, municipal storage of road and road treatment supplies and related equipment, municipal office buildings and other similar uses.
 - B. Communications antenna mounted on an existing public utility transmission tower, building or other structure, subject to the provisions of §27-404(6). [*Ord. 938*]

[*Ord. 939*]

3. **Conditional Uses.** The following uses are permitted subject to the conditions of this Chapter, the Borough Floodplain Ordinance (Chapter 8 of this Code), or other applicable Federal, State and local regulations:
 - A. Public or private recreational uses and related facilities.
 - B. River-oriented recreation and commercial uses adjacent to the Allegheny River, such as marinas; boat docks, storage and launching facilities; fishing piers or areas; observation areas; restaurants, specialty shops; and, similar uses.

- C. Farming, greenhouses, plant nursery and gardens.
- D. Accessory uses to a principal conditional use, including a residential unit for a security person or custodian.
- E. Nursing or convalescent homes, institutional facilities, as defined by this Chapter.
- F. Group residences and family boarding homes as defined by this Chapter.
- G. Communications tower, including tower-mounted communications antenna and any related communications equipment building, subject to the provisions of §§27-404(6) and 27-504(J). [*Ord. 1001*]

[*Ord. 1001*]

4. **Area and Bulk Regulations; Permitted and Conditional Uses.**

- A. Minimum lot area - 6,000 square feet.
- B. Minimum yard requirements - all yard and setback requirements will be established by Borough Council during the review of the conditional use application, based on the type of use proposed, site access, connection required to adjacent uses or properties, and similar conditions.
- C. Maximum lot coverage - total impervious surfaces shall not exceed 30% of lot area.
- D. Maximum height - 25 feet.

5. **Off-Street Parking Requirements.** As specified by §27-409 of this Chapter.

6. Reserved.

(*Ord. 775*, 6/15/1983, §140-311; as amended by *Ord. 908*, 7/13/1995, §311; by *Ord. 938*, 10/14/1998, §§3,4; by *Ord. 939*, 10/14/1998, §1G; by *Ord. 1001*, 10/13/2004, §4; and by *Ord. 1045*, 1/12/2011, §1)

PART 4

SUPPLEMENTAL REGULATIONS

§27-401. General Intent.

The regulations contained in this Part are intended to apply to all zoning districts, uses, structures or lots except as otherwise provided in this Chapter.

(*Ord. 775, 6/15/1983, §140-401*)

§27-402. General Provisions and Exceptions.

1. Pending Building Permits.

A. Nothing in this Chapter shall require any change in construction or use of any structure for which a building permit was lawfully issued prior to the effective date of this Chapter, or any amendment thereto; provided, that construction has begun or a contract or contracts have been let pursuant to the permit issued prior to the effective date of this Chapter.

B. However, any building permit which was issued 30 days prior to the adoption of this Chapter shall be declared void at the time of adoption of this Chapter, if the structure or use does not conform to the provisions of this Chapter and if no substantial construction has begun or contract(s) let.

2. Principal Building. In any AR-1, AR-2 or AR-3 Districts, there shall be only one principal building on each zoning lot.

3. Mixed Uses. Land, buildings and structures shall be designed and used only for authorized uses within respective zoning districts. [*Ord. 985*]

4. Dwelling in a Basement. No dwelling unit or units shall be contained in a basement or cellar.

5. Trash and Garbage Disposal Storage. In all AR-4, AR-S, AC-1, AC-2, AI-1, A-CD Districts, exterior trash or garbage storage shall be screened from a public street or adjacent property by a solid screen not less than 6 feet in height, unless otherwise stated in this Chapter. [*Ord. 995*]

6. Floodplain Districts. The floodplain districts (including floodway and flood fringe areas), as established by the Borough's Floodplain Ordinance (Chapter 8 of this Code), shall be an overlay to the underlying zoning districts shown on the Official Zoning Map. The provisions for a floodplain district shall supplement the underlying district provisions contained in this Chapter. No zoning use or occupancy permit shall be issued to any use or structure unless the required floodplain building permit has been obtained.

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7. **Stormwater Management.** Any landowner and any person engaged in the alteration or development of land which may affect stormwater runoff characteristics shall implement such measures as are reasonably necessary to prevent injury to health, safety or other property. Such measures shall include such actions as are required:
- A. To assure that the maximum rate of stormwater runoff is no greater after development than prior to development activities.
 - B. To manage the quantity, velocity and direction of resulting stormwater runoff in a manner which otherwise adequately protects health and property from possible injury.

If the development site is located within a watershed for which a stormwater management plan has been adopted in accordance with the Pennsylvania Stormwater Management Act (167 of 1978), then any proposed stormwater control measures shall be consistent with the watershed plan. The control measures for an individual development or site shall be approved by the Borough Engineer. All calculations of pre- and post-development stormwater runoff and storage requirements shall be done using the U.S. Soil Conservation Service Soil Cover Complex Method or other method approved by the Borough Engineer.

[*Ord. 806*]

(*Ord. 775, 6/15/1983, §140-402; as amended by Ord. 806, 6/11/1986; by Ord. 985, 6/12/2002, §1; and by Ord. 995, 12/10/2003*)

§27-403. General Height Provisions and Exceptions.

- 1. **Measurement of Height.** The authorized height of buildings shall be measured in accordance with the definition of “height, maximum” in this Chapter.
- 2. **Height Exceptions.** Chimneys, flues, smoke stacks, fire escapes, gas holders, elevator enclosures, ventilators, skylights, water tanks and similar rooftop structures required to operate the building, as well as flagpoles, television aerials, water towers and tanks, church spires and towers, electric transmission towers may exceed the maximum height standard. No such object shall exceed a height of 75 feet, and the required side yards shall be increased 1 foot for each 5 feet such object exceeds 45 feet.

(*Ord. 775, 6/15/1983, §140-403*)

§27-404. General Lot Area Provisions and Exceptions.

- 1. **Lot Area.** Any lot together with the required yards and open areas on it shall be equal to or exceed the minimum lot area established for the zoning district in which the lot is located.

2. **Required Lot Area.**

- A. A portion of a lot once designated as a yard, or a lot area, or portion thereof, used in calculating the number of dwelling units permitted on that lot shall not be used again as a factor in determining the required area for another lot or building, nor shall it be sold as a lot or parcel thereof, separate from the lot of which it is a part.
- B. Any portion of a lot which is recorded or otherwise reserved for future street purposes shall not be used as a factor in determining lot area per dwelling unit or yard dimensions.

3. **Front Yard Exception.**

- A. In AR-1, AR-2, AR-3 or AR-4 districts, the front yard setback of a single or two family structure may be reduced to the average of the front yards of the two abutting structures, where the lot is situated between two lots on which the principal structures have maintained a lesser setback since the enactment of this Chapter.
- B. Where the lot adjoins only one lot having a main building that projects beyond the established front yard line, then the front yard on such lot may be the average of the front yard of the existing building and the established front yard line.

4. **Unenclosed Porches.**

- A. In any residential district, an unenclosed porch may be erected in a required front yard; provided, it does not extend more than 10 feet into a required yard and does not exceed 14 feet or one story in height. An unenclosed porch may also be erected in a required side or rear yard, provided it does not extend more than 14 feet into a required yard and does not exceed 14 feet or one story in height.
- B. An unenclosed front porch may be partially enclosed, provided it maintains a ratio of 60% open area to 40% closed area and is not designed to serve as a year-round living area. The open area may include louver windows.
- C. An unenclosed rear porch may be enclosed for year-round living use.

[Ord. 825]

5. **Projections Into a Permitted Yard.** A buttress, chimney, cornice, pier or pilaster, not projecting more than 18 inches from the wall of a building, as well as unenclosed fire escapes, may project into a required yard.

6. **Regulations Governing Communications Antenna and Communications Equipment Buildings.**

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- A. A building-mounted communications antenna shall not be located on any single-family dwelling or two family dwelling.
- B. A building-mounted communications antenna shall be permitted to exceed the height limitations of the applicable zoning district by no more than 20 feet.
- C. An omnidirectional or whip communications antenna shall not exceed 20 feet in height and 7 inches in diameter.
- D. A directional or panel communications antenna shall not exceed 5 feet in height and 3 feet in width.
- E. Any applicant proposing a communications antenna to be mounted on a building or the structure shall submit evidence from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or other structure, considering wind and the loads associated with the antenna location.
- F. Any applicant proposing a communications antenna to be mounted on a building or other structure shall submit detailed construction and elevation drawings indicating how the antenna will be mounted on the building or structure for review by the Borough Engineer for compliance with Chapter 5 of the Aspinwall Borough Code, Building Construction, and other applicable laws.
- G. Any applicant proposing a communications antenna to be mounted on a building or other structure shall submit evidence of agreements and/or easements necessary to provide access to the building or structure on which the antenna is to be mounted so that installation and maintenance of the antenna and any communications equipment building can be accomplished.
- H. A communications antenna shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
- I. A communications antenna shall not cause radio frequency interference with communications facilities located in the Borough.
- J. Any communications equipment building where the building footprint is equal to or less than 100 square feet shall be subject to the height and setback requirements of the applicable zoning district for an accessory structure. Any communications equipment building where the building footprint is greater than 100 square feet shall be subject to the height and setback requirements of the applicable zoning district for a principal building or structure.
- K. The owner or operator of any communications antenna shall be licensed by the Federal Communications Commission to operate such antenna.

[*Ord. 938*]

(*Ord. 775*, 6/15/1983, §140-404; as amended by *Ord. 825*, 8/12/1987, §404.4; and by *Ord. 938*, 10/14/1998, §5)

§27-405. Front Building Line Setbacks.

In AR-1, AR-2 and AR-3 districts, front building line setbacks, or minimum front yards, shall be established by street location. Building line setbacks shall be measured from the street right-of-way line. In other districts, the front building lines shall conform to the applicable provisions of Part 3.

A. AR-1 Districts.

	Street	Setback (feet)
-1	Seventh Street, northern side	20
-2	Eighth Street, northern side	14
-3	Ninth Street	18
-4	Tenth Street	18
-5	Eleventh Street	18
-6	Twelfth Street	18
-7	Guyasuta Road, northern side	25
-8	Guyasuta Road, southern side from Guyasuta Lane to easterly Borough boundary	20
-9	Knollwood Drive	25
-10	Guyasuta Lane, eastern side	10
-11	Center Avenue, eastern side from Route 28 to Guyasuta Road	20
-12	Center Avenue, western side from Route 28 to Eleventh Street	20
-13	Center Avenue, western side, Eleventh to Twelfth Streets	12

B. AR-2 Districts.

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	Street	Setback (feet)
-1	Delafield, Lexington, Virginia, Emerson Avenues, from southerly zoning district boundary to Fourth Street	25
-2	Emerson Avenue, western side, from Fourth to Sixth Streets	25
-3	Brilliant Avenue, eastern side, from zoning district boundary to Sixth Street	25
-4	Brilliant Avenue, from Third to Sixth Streets	25
-5	Maple Avenue, eastern side	25
-6	Maple Avenue, western side, from Third to Fourth Streets	10
-7	Maple Avenue, western side, from Fourth to Sixth Streets	15
-8	Eastern Avenue, eastern side, from Third to Sixth Streets	20
-9	Second Street, from Brilliant to Delafield	15
-10	Fourth Street, northern side, from Eastern to Emerson Avenues	15
-11	Fourth Street, southern side, from Eastern Avenue to Delafield Road	10

C. **AR-3 Districts.**

	Street	Setback (feet)
-1	Brilliant Avenue, western side, Alley "B" to Third Street	25
-2	Eastern Avenue, from First to Sixth Streets	20
-3	Center Avenue, from First to Sixth Streets	20
-4	Western Avenue, from Alley "A" to Sixth Street	20

	Street	Setback (feet)
-5	First Street, from westerly Borough boundary to eastern zoning district boundary (includes only northern side of First Street between Eastern and Center Avenues)	15
-6	Second Street, from westerly Borough boundary to Brilliant Avenue	15
-7	Third Street, from Field to Eastern Avenue	15
-8	Fourth Street, northern side, from Field to Eastern Avenue	15
-9	Fourth Street, southern side, from Field to Eastern Avenue	10
-10	Fifth Street, northern side	15
-11	Fifth Street, southern side	10

(Ord. 775, 6/15/1983, §140-405)

§27-406. Accessory Uses.

1. **Permitted Accessory Uses.** A permitted accessory use must comply with the definition of “accessory use” contained in Part 2 of this Chapter. Examples of permitted uses are:
 - A. Garage, carport, shed or building for domestic storage, or storage of a boat, trailer or camper.
 - B. Child’s playhouse, garden house, gazebo and private greenhouse.
 - C. Private residential swimming pool or private recreational facility.
 - D. Civil defense shelter for not more than two families.
 - E. Storage of merchandise normally carried in stock on the same lot with a permitted retail, service or business use, unless such storage is excluded by the district regulations.
 - F. Storage of goods used in or produced by manufacturing activities, on the same lot or parcel of ground with such activities unless such storage is excluded by the district regulations.

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- G. Off-street motor vehicle parking areas, and loading and unloading facilities.
 - H. Signs where permitted by this Chapter.
 - I. Employee restaurants and cafeterias when located in a permitted business or manufacturing building.
2. **Prohibited Accessory Uses.**
- A. Outdoor storage or overnight parking of trucks or buses, campers, boats and trailers or other recreational vehicles, construction vehicles or equipment, except as permitted by the provisions of Chapter 15 of this Code.
 - B. Outdoor storage, except as specifically permitted by the district regulations (Part 3).
3. **Location of Accessory Uses.** Unless otherwise stipulated by this Chapter, the following standards shall apply:
- A. **Residential Districts (AR-1, -2, -3, -4, AR-S).**
 - (1) **Front Yard.** Accessory uses, with the exception of permitted signs, shall not be located in the required front yard of any zoning lot.
 - (2) **Side and Rear Yards.** Accessory uses are permitted; provided, they are no closer than 2-1/2 feet of any lot line and complies with the requirements of subsection (C), below. On a corner lot, an accessory use, located in a side or rear yard, must maintain the same setback from the street right-of-way line as the principal structure.
 - B. **Commercial, Industrial and Conservation Districts. (AC-1, -2, AI-1, A-CD).**
 - (1) **Front Yard.** In addition to permitted signs, which are in compliance with this Chapter, off-street parking areas are permitted in a required front yard. The parking area must maintain a minimum 3 foot, landscaped setback from the street right-of-way or sidewalk line, and it shall comply with the applicable screening provisions of §27-409 of this Chapter.
 - (2) **Side and Rear Yards.** Accessory uses are permitted. If the yard abuts a residential district, the accessory use must maintain a minimum 3 foot setback, screened in accordance with §27-407 of this Chapter.
 - C. No part of any accessory structure shall be located closer than 10 feet to any principal structure, unless it is attached to or forms a part of such principal structure. No accessory structure shall be located closer than 3 feet to another accessory structure on an abutting property.

- D. Accessory structures and uses shall otherwise comply with the bulk regulations applicable in the district in which they are located.
4. **Use Limitations.**
- A. All accessory structures and uses shall comply with the use limitations applicable in the zoning district in which they are located.
 - B. No accessory structure shall be constructed and occupied on any lot prior to the time of the completion of the construction of the principal structure to which it is accessory.
5. **Permit and Maintenance Requirements.**
- A. A zoning permit must be obtained from the Borough Zoning Officer for any new, expanded or altered accessory use or structure. The owner is responsible for maintaining the accessory use/structure in safe condition in accordance with all applicable regulations.
 - B. If the Zoning Officer finds that an accessory structure is not being used for its intended purpose or not being maintained, the Zoning Officer shall give written notice to the owner to repair or remove it within 15 days from the receipt of the notice. In the event the owner fails to comply with the Zoning Officer's written notice, the owner shall be considered in violation of this Chapter and subject to all of the penalties contained herein.

(Ord. 775, 6/15/1983, §140-406)

§27-407. Fencing and Screening, Retaining Walls.

Unless otherwise stipulated, the following standards shall apply:

- A. **Placement, Materials, Height.**
 - (1) Fences, walls (other than retaining) or screens may be erected only in a side or rear yard, and within lot boundaries, in any zoning district.
 - (2) A retaining wall will be erected along any property line where it is required to prevent a landslide or other hazardous conditions.
 - (3) A fence or screen cannot be erected in a public or dedicated right-of-way.
 - (4) Solid fences may only be erected in rear yards to enclose a pool, patio or similar area for privacy and security.
 - (5) Fences, walls or screens shall not exceed 6 ½ feet in height, as

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measured from the ground level at the base of the structure.

- (6) The location and height of a security fence for a school, park or other public facility/use shall be established by the Planning Commission.

B. Performance Standards for Fences, Walls and Screens.

- (1) In any district, trees, shrubs and other planting are permitted in any front yard provided they do not block a clear view or vision for vehicular traffic.
- (2) Authorized fences and screens whether publicly or privately owned, shall not obstruct the clear sight distances at street intersections. A “clear sight triangle” shall be maintained including the entire triangular area as measured 75 feet from the intersection centerline of street (or driveway) intersection.
- (3) Fences shall not contain barbs or similar types of injurious hazards, unless specifically approved by the Planning Commission for security reasons.

C. Screening, Fencing for Commercial, Industrial Uses. Wherever this Chapter requires screening of a commercial or industrial use, or portion thereof, the following standards shall apply:

- (1) A planted screen shall be of sufficient density and type of planting material to provide a year-round visual barrier, within two growing seasons of planting. The minimum height shall be 5 feet, but the Planning Commission may require additional height where it is necessary to achieve adequate visual screening of the use.
- (2) Walls, fences or other visual screens may be used in accordance with the provisions of §27-407 of this Chapter.
- (3) Screening of off-street parking and loading areas shall be in accordance with §27-409 of this Chapter.
- (4) The property or business owner shall be responsible for the continuing maintenance of any planted screen, fence or wall.
- (5) Water towers, storage tanks, processing equipment, fans, cooling towers, vents and any other structures or equipment that rise above the roof line, other than a radio or television antenna, shall be effectively shielded from view of any public or private street by an architecturally sound method.

D. Permit and Maintenance Requirements.

- (1) A zoning permit must be obtained from the Zoning Officer for the

erection of any fence, wall or screen.

- (2) If a fence, wall or screen is not maintained in a safe condition and in accordance with Borough regulations, the Zoning Officer shall give written notice to owner to repair or remove the fence within 15 days of receipt of the notice. In the event the owner fails to comply with the order, the owner shall be considered in violation of this Chapter and subject to the penalties contained herein.
- (3) If a fence, wall or screen is destroyed or deteriorates beyond 50% of its total linear displacement, then it must be removed within 15 days of receipt of written notice from the Zoning Officer.

(Ord. 775, 6/15/1983, §140-407)

§27-408. Signs.

1. **Application.** No sign shall be erected, altered, painted, relocated, remodeled, expanded or maintained in any manner that is inconsistent with the provisions of this Chapter and all other applicable Borough ordinances. A zoning permit must be obtained from the Zoning Officer prior to the erection or alteration of any sign. The Planning Commission shall review and approve all sign applications, except temporary sign applications, prior to issuance of the necessary zoning permit. The Zoning Officer shall review and approve all temporary sign applications. [Ord. 995]
2. **Permitted Signs, Size and Placement Requirements.**
 - A. The following signs are permitted in all zoning districts:
 - (1) Nameplates or identification signs not exceeding 1 square foot and attached to a wall of the structure, which may indicate the occupants of the structure, or in the case of a multiple-occupancy structure, the name of the management agency. [Ord. 988]
 - (2) Real estate signs not exceeding 12 square feet, advertising the premises for sale or lease, which are to be removed within 20 days of the sale or lease of the premises, or when the last unit of a multi-unit development is sold or leased.
 - (3) Construction signs advertising the development or improvement of a property by a builder, contractor or similar person provided that not more than one such sign shall be permitted for a development or property. The sign shall not exceed 12 square feet, and it shall be removed within 15 days of the completion of work.
 - B. In AR-1, -2, -3, -4, AR-S Districts, a multifamily development, any authorized conditional use, or a planned residential development may have *one* principal identification sign subject to the following:

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- (1) The sign shall not exceed 12 square feet in surface area.
 - (2) The sign may be either attached to a building or free-standing.
 - (3) If free-standing, the height shall not exceed 6 feet, as measured from ground level at the base of the sign, and the sign shall be set back at least 5 feet from the street right-of-way line and 10 feet from a side lot line.
 - (4) A free-standing sign may be single or double face, but no face may exceed the maximum size limitation.
- C. In AC-1 and A-CD Districts, business identification signs are permitted for any lawful commercial or industrial establishment, which announce the services or products sold on the premises, subject to the following:
- (1) **Number and Size.** Two signs shall be permitted for each business establishment indicating the services or products sold on the premises. The aggregate sign area shall not exceed 40% of the signable wall area, as defined by this Chapter. [*Ord. 980*]
 - (2) **Type.** The principal identification signs may include one awning or one canopy sign and one of the following types: (a) a wall sign attached to a main building; or (b) permanent window based sign. [*Ord. 980*] [*Ord. 995*]
 - (3) **Wall Signs.** If attached to the structure, it shall be attached to a front or side wall of the building, parallel to the facade of the building, and not projecting more than 12 inches from the wall. For a one-story building, wall signs shall be placed in the wall area between the lintel bar(s) of the doors and windows and the parapet. For a multi-story building, wall signs shall be placed in one of the following locations: (a) in the wall area between the lintel bar(s) and the floor level of the floor above; or (b) in the wall area between the lintel bar(s) of the top floor and the parapet. Such sign shall be erected so that all portions of the sign are at least 9 feet above grade at the entrance to the establishment. No sign shall be painted directly on the surface of the wall. [*Ord. 1040*]
- Provided, however, if the location of a porch roof on an existing structure prevents the wall sign from being placed in accordance with the above requirements, then the wall sign shall be attached to the front first floor wall of the building so that no portion of the sign is located above the height of the door frame on that wall of the building. [*Ord. 1001*]
- (4) **Awning, Canopy Sign.** Where an awning or canopy sign is used, only individual cut-out letters and/or symbols may be attached to, painted, stenciled or otherwise placed on the awning or canopy. An

awning or canopy shall not extend into any public right-of-way.

- (5) **Permanent Window Based Signs.** A permanent window-based sign shall only include the following types of signs: (1) window graphics permanently applied to the glass surface of a window; or (2) a sign permanently mounted inside the building and visible from and through the outside of the window (i.e. neon window sign). A permanent window-based sign shall not exceed the sign area stated in subsection (C)(1), above, nor more than 30% of the total window area. [*Ord. 995*]

- (6) **Double Frontage.** Where a business establishment fronts on more than one public street, it may locate two signs, one of which shall be an awning or canopy sign, on each street frontage; each public street frontage shall be considered a separate signable wall area for the purpose of this Chapter and shall comply with the size and type limitations in subsections (C)(1) and (2), above. The permissible sign size for one frontage shall not be combined with that for another frontage for the purpose of placing the combined sign area on one frontage. [*Ord. 980*]
- (7) **Multiple Occupancy Buildings.**
- (a) Where several businesses occupy a building, each business shall be entitled to a share of the building's allowable sign area, based on signable wall area, which share shall be equal to the proportionate amount of the floor area that the business leases to total leasable floor area of the building. [*Ord. 985*]
- (b) Businesses that occupy upper floors or basement areas may also post a permanent window-based sign which shall be of a type referenced in subsection (C)(5) above but shall not exceed 6 square feet in area. [*Ord. 995*]
- (c) Nameplates, not exceeding 5 square feet in area, identifying building occupants may also be attached to a wall of the structure adjacent to the principal entrance or permanently painted or applied to a window in the door of the structure.
- (d) It shall be the responsibility of the owner or management agent of a multiple occupancy building to provide all occupants with suitable sign space that is consistent with the provisions of this Chapter. The failure of the owner/agent to do so shall not constitute a basis for granting a variance to any sign requirements.
- (8) **Incidental, Temporary Window Signs.** Incidental signs which announce brand name products sold on the premises, credit cards accepted, official notices required by law, or trade affiliations or temporary signs announcing special business promotional activities are permitted to be displayed in store windows; provided, that at any one time they do not exceed 30% of the establishment's total window area including any permanent window-based signs. [*Ord. 995*]
- D. In AC-2 and AI-1 Districts, any business identification sign authorized in AC-1 Districts shall be permitted. In addition to one of the signs allowed by §27-408(2)(C)(2), a business in this district may have one free-standing sign subject to the following requirements:

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- (1) The business fronts on a public street; the principal structure or building is set back at least 30 feet from the street right-of-way; and, the zoning lot has a frontage of 100 feet or more.
 - (2) A free-standing sign shall be set back a minimum of 15 feet from the street right-of-way and at least 10 feet from any side lot line. No free-standing sign shall be closer than 100 feet to any other free-standing sign that is 6 square feet or more in size.
 - (3) A free-standing sign shall not exceed 30 square feet in area and 12 feet in height, as measured from ground level at the base of, or below, the sign to the highest element of the sign.
 - (4) A free-standing sign shall not obstruct the required clear sight distance at any street or driveway intersection.
- E. Billboards, or outdoor advertising signs, which are not related to the use of the property on which they are located, shall be permitted only in AI-1 Districts. Only one such sign shall be permitted per property or lot, and it shall not exceed 40 square feet in area and shall comply with the setback and height standards for AI-1 Districts. No billboard shall be placed so as to face a lot on the same street on which a church, public use or building, park, playground, scenic area, or river frontage is located.
3. **Additional Sign Requirements:** The following requirements shall apply to all signs in all zoning districts:
- A. Rotating free-standing signs, swinging signs or signs projecting over a right-of-way are prohibited. Banners, pennants, search lights, twirling signs, sandwich board signs, sidewalk or curb signs, balloons or other gas-figures shall not be used on a permanent basis. Flags are prohibited, except as provided for in §27-408(5).
 - B. Signs that are animated or have flashing illumination are prohibited in all districts.
 - C. Signs may be illuminated internally, indirectly, by floodlights, or by neon tube illumination. Illuminated signs shall be designed and placed so as not to interfere with, distract, confuse or blind operators of motor vehicles. Floodlighting shall be placed so that it is not visible from any point off the lot and only the sign is directly illuminated.
 - D. No sign shall be attached to any tree or utility pole on public or private property, except as permitted by subsection .6. [*Ord. 1013*]
 - E. No sign shall be erected upon or applied to any roof or project above the cornice line of a flat roof or above the gutter line of a sloped roof building. No sign shall project beyond any property line and/or be located within a road right-of-way except as permitted by subsection .6. [*Ord. 1013*]

- F. No free-standing sign shall obstruct safe, clear sight distance at any street or driveway intersection. No free-standing sign shall have more than two faces: sign areas stated in this Chapter shall be the maximum for one face. All free-standing signs shall be set permanently in concrete to a depth of at least 3 feet.
 - G. Every authorized sign must be constructed of durable materials in conformance with the Borough Building Code (Chapter 5) and must be maintained in good condition and repair, including the replacement of defective parts, painting, repainting, cleaning and maintenance of structural supports.
 - H. If any sign becomes dilapidated to the point that it constitutes an unsightly or hazardous condition, then the Zoning Officer shall order it repaired or removed within 15 days. In the event the owner fails to comply with the order, the owner shall be considered in violation of this Chapter and subject to the penalties contained herein. This violation shall be in addition to any imposed by the Borough Building Code.
 - I. If a use ceases for a period of 6 months, all signs for that use, including any supporting structures, must be removed. If the signs are not removed, the Zoning Officer shall notify the building owner who shall have 15 days from date of notification to remove the signs. In the event the owner fails to comply with the order, the owner shall be considered in violation of this Chapter and subject to the penalties contained herein.
4. **Temporary Signs.** Temporary outdoor signs advertising special business promotional activities, business openings or closings, temporary activities such as a church carnival or a street fair or festival are permitted, provided:
- A. The temporary sign receives a permit from the Zoning Officer; the period of the permit shall not exceed 30 days and the sign shall be removed immediately upon the expiration of the permit. Another permit for a temporary sign for the same use or zoning lot shall not be issued within 60 days of the expiration date of the first permit.
 - B. The sign is only located on the premises where the special activity is taking place, and only one such sign shall be permitted for the premises.
 - C. The sign does not exceed 12 square feet on any one face.
 - D. The sign is not animated or flashing, and any illumination for the sign does not create an unsafe condition for motorists or glare on surrounding properties.
5. **Exemptions to Sign Requirements.** The following signs shall be exempt from the requirements of this Section:
- A. Flags or emblems of a government, political, civic, philanthropic,

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educational or religious organization displayed on private property.

- B. Signs placed by a governmental body, including traffic or directional devices, legal notices and warning, instructional or regulatory signs.
 - C. Address numerals and other signs required to be maintained by law or governmental regulation; provided, that the content and size of the sign does not exceed the requirements of such law or regulation.
 - D. Small directional signs, not exceeding 5 square feet in area, displayed on private property for the convenience of the public, including signs to identify entrance and exit drives, parking areas, one-way drives, rest rooms, freight entrances and the like.
6. **Banner Signs.** Banner signs advertising community events and/or commemorative activities are permitted to be attached to utility poles within the Borough road right-of-way for Brilliant Avenue between the intersections with Freeport Road and Fourth Street subject to the following requirements, regulations and restrictions:
- A. **Type.** The banner signs shall be constructed of weather-resistant material such as cloth or plastic. The banner signs shall not be digital, animated, flashing or illuminated.
 - B. **Number.** No more than one banner sign shall be attached to a utility pole at any one time. In order to provide a uniform banner scheme along Brilliant Avenue, the applicant shall provide banners at a minimum of nine utility pole locations along Brilliant Avenue between the intersections with Freeport Road and Fourth Street.
 - C. **Size.** A banner sign shall not exceed 6 square feet in surface area. The length of a banner sign shall not exceed 2 feet and the width of the banner sign shall not exceed 3 feet.
 - D. **Height.** The banner sign shall be located on the utility pole so that the bottom of the banner sign and any related bracket or arm is at least 7 vertical feet above ground level.
 - E. **Attachment to Utility Poles.** All signs erected pursuant to this subsection shall be mounted on the utility poles using a bracket and arm design and construction approved by the Borough Engineer and the owner of the utility pole.
 - F. **Utility Pole Owner Consent.** The applicant shall obtain written approval and/or consent from the owner of the utility pole.
 - G. **Sign Permit and Duration.** The applicant shall apply for and obtain a sign permit for any banner signs permitted by this subsection. Only one permit shall be issued at a time for banner signs along Brilliant Avenue in order to provide a uniform banner scheme. The period of the permit shall not exceed

90 days and the banner signs shall be removed immediately upon the expiration of the permit. An applicant shall not be permitted more than two display periods in any single 12-month period. The duration and permit period restrictions within this subsection shall not apply to banner signs installed by the Borough.

- H. **Indemnification Agreement.** Prior to the issuance of a sign permit for any banner signs permitted by this subsection, the sign permit applicant shall execute an indemnification agreement with the Borough in a form acceptable to the Borough Solicitor.

[*Ord. 1013*]

(*Ord. 775*, 6/15/1983, §140-408; as amended by *Ord. 980*, 8/8/2001; §140-408; by *Ord. 985*, 6/12/2002, §2; by *Ord. 988*, 11/13/2002, §8; by *Ord. 995*, 12/10/2003; by *Ord. 1001*, 10/13/2004, §5; by *Ord. 1013*, 9/13/2006, §§1-3; and by *Ord. 1040*, 5/12/2010, §2)

§27-409. Off-Street Parking Requirements.

1. **Application.**

- A. Unless specifically exempted by the provisions of this Chapter, all structures and uses shall provide off-street parking areas in accordance with this Section.
- B. When an existing structure or use is expanded, altered, increased in density or otherwise changed, parking spaces for the area or capacity of such expansion shall be required in accordance with this Section. The expansion or alteration shall not result in the elimination of any existing required off-street parking spaces.
- C. When an existing structure or use not in conformity with the off-street parking requirements of this Chapter is expanded, altered, increased in density or otherwise changed, the entire structure or use shall be brought into compliance with the off-street parking requirements of this Chapter.
- D. A subdivision or combination of lots shall not result in the elimination of any required parking spaces for an existing structure or use.

[*Ord. 887*]

2. **General Provisions.**

- A. **Utilization.** Required off-street parking facilities shall be solely for the parking of motor vehicles in operating condition of patrons, occupants or employees of such use.
- B. **Access.** Each required off-street parking space shall open directly upon an

aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. This provision is not applicable for dwellings where a driveway is utilized to meet off-street parking requirements.

- C. **Enclosed Parking.** Enclosed parking facilities containing off-street parking shall be subject to the area and bulk requirements applicable in the district in which they are located, unless otherwise specified in this Chapter.
- D. **Design and Maintenance.**
 - (1) **Size.** The minimum dimensions for a conventional parking space will be 9 feet in width by 18 feet in length, exclusive of curbs and maneuvering space. For a handicapped parking space, the size shall be 12.5 feet in width by 20 feet in length.
 - (2) **Design.** The minimum dimension of interior driveways and parking aisles shall be 25 feet. Driveways and aisles shall be designed so that each vehicle may have ingress and egress from the space without moving any other vehicle. All access ways shall be designed so as to provide safe exit and entrance from the public street, in accordance with applicable Borough standards or PennDOT specifications.
 - (3) **Surfacing.** All parking areas, including those for single and two family dwellings, shall be graded and paved or otherwise improved with an all-weather material of asphalt, concrete, grouted brick or paving blocks approved by the Borough. [*Ord. 838*]
- E. **Screening.** All open off-street parking areas containing more than eight parking spaces shall be effectively screened on each side by a wall, fence or densely planted compact evergreen hedge not less than 4 feet in height. Parking areas shall be arranged and designed so as to prevent damage to, or intrusion into, such wall, fence or hedge. Clear sight triangles, as defined by this Chapter, shall be maintained. Open parking areas for 10 or more cars shall be interspersed with land forms or other appropriate landscape or planted area.
- F. **Lighting.** Any lighting used to illuminate off-street parking areas and driveways shall be directed away from residential properties or public street in such a way as not to interface with such uses. The lighting system shall furnish minimally an average of 2 foot candles during hours of operation with lighting standards being located not more than 80 feet apart.
- G. **Repair and Service.** No motor vehicle repair work or service of any kind shall be permitted in association with any off-street parking facilities.
- H. **Multiple Parking Occupancy.** When a number of different uses or businesses are proposed within a structure, facility or complex on the same

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zoning lot, and when it can be demonstrated that one or more of such uses require parking spaces at times other than normal business or operating hours for other uses, the applicant may present to the Planning Commission a written report stating that a maximum combination of all such uses will not require that total accumulative parking spaces required by this Chapter. If the Planning Commission, after review, determines that a reduced overall parking requirement can satisfy the off-street parking needs of the combined facilities, the applicant shall be permitted to reduce the parking spaces provided in accordance with the plan approved by the Planning Commission. [*Ord. 847*]

I. **Location.**

- (1) All off-street parking spaces required to serve structures or uses shall be located on the same zoning lot as the structure or use served or within 600 feet of a main entrance to the structure or use served.
- (2) If not located on the same zoning lot, the required off-street parking spaces shall be located on a zoning lot owned by or leased to the owner of the zoning lot on which the principal use is located. If the off-site, off-street parking spaces are leased, the term of the lease shall be for a period of not less than 20 years. No property located in a residential zone may be used for off-site, off-street parking; however this restriction shall not apply to Borough-owned or -controlled property. [*Ord. 995*]
- (3) Evidence of ownership or lease rights shall be presented to the Borough in the form of a deed, contract of sale, option agreement or lease.
- (4) The continued ownership or lease of the approved off-site, off-street parking spaces shall be a condition to occupancy of the principal use which the parking spaces serve.

[*Ord. 856*]

- J. Required parking may be provided in a garage, carport or open-air paved area, located and designed in accordance with this Chapter. A driveway for a dwelling unit may count for one off-street space, provided it does not inhibit access to other required off-street spaces. [*Ord. 887*]

3. **Required Spaces by Type of Use.** The actual number of off-street parking spaces required by any use or development shall be calculated during the site plan review by the Planning Commission or the review of the conditional use application by Borough Council based on the standards set forth below in this subsection. In the event neither site plan review nor conditional use is required, the actual number of off-street parking spaces shall be calculated by the Zoning Officer, based on the standards set forth in this subsection.

Use Type	Minimum Required Spaces
Residential	Two spaces per dwelling unit [<i>Ord. 887</i>]
Commercial	
Automotive Repair	One per 150 square feet of GFA
Bank, Savings & Loan Association	One per 200 square feet of gross floor area (GFA)
Bank, Drive-in	One per 1/4 exterior teller window and four for each interior teller window
Business & Professional Offices (other than medical or dental offices)	One per 300 square feet of GFA
Day Care Center, Pre-Primary School	One per staff member, plus one space per six children
Doctor and Dentist Offices	One per examining room, plus one for each two chairs in waiting room, plus one per physician and staff member
Eating and Drinking Establishments (sit-down type)	One per four seats at tables and one per two seats at a bar or counter, plus one per two employees
Gasoline Service Station	Two spaces per service bay, plus one per employee
Laundromats	One per three washing or dry cleaning machine (exclusive of dryers)
Medical and Dental Clinic or Laboratory	One per 200 square feet of GFA
Mortuary	One per three seats in any chapel or seating area and not less than five spaces for each viewing area or room
Motel or Hotel	One per guest room plus parking requirements for any restaurant, bar or other facilities as required by this Chapter
Personal Service & Repair Establishment	One per 100 square feet of GFA plus one for each two employees
Private School for Art, Music, Crafts, Dance, Etc.	One per staff member, plus one per three students

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Use Type	Minimum Required Spaces
All Commercial Uses Not Specifically Listed [<i>Ord. 847</i>]	One per 200 square feet of GFA
Restaurants (Drive-In or Fast Food)	One per two seats, plus one per employee
Theater	One per four seats
Veterinary Office or Clinic or Hospital	One per 150 square feet of GFA, plus one per staff member
Commercial Recreation	
Bowling Alleys	Four per alley
Swimming Pools and Clubs	One space per 38 square feet of water area
Tennis, Racquetball Courts, etc.	4.5 spaces per court
Other Commercial Recreational Facilities Not Specifically Mentioned	One per 200 square feet of GFA [<i>Ord. 847</i>]
Industrial	
Manufacturing, Warehouse and Wholesale	One per two employees on the two largest shifts combined
Public Quasi-Public	
Churches	One per three fixed seats, plus one per employee
Elementary, Junior or Senior High School	Two per classroom plus one for each five students 16 years of age or older [<i>Ord. 847</i>]
Colleges, Universities and other Special Institutions	Two per classroom plus one for each five students 16 years of age or older [<i>Ord. 847</i>]
Hospitals	One and ½ per bed plus one for each staff physician and one for each two other employees
Nursing or Convalescent Homes	One per three beds plus one for each two other employees
Private Clubs and Lodges	One per 1.5 members

Use Type	Minimum Required Spaces
Public or Nonprofit Recreation	One per four persons of design capacity for the facility
Public Utilities	One per two employees on two largest shifts combined

(*Ord. 775*, 6/15/1983, §140-409; as amended by *Ord. 838*, 11/9/1988, §140-409.2; by *Ord. 847*, 4/12/1989, §§409.2, 409.3j; by *Ord. 856*, 12/13/1989, §409.2; by *Ord. 887*, 8/12/1992, §§409.1, 409.2, 409.3; and by *Ord. 995*, 12/10/2003)

§27-410. Off-Street Loading Requirements.

1. **Applicability.** In any zoning district, all structures and uses which require the receipt or distribution of materials or products by trucks or similar vehicles, shall provide accessory off-street loading spaces as required by this Chapter. When an existing structure is expanded, accessory off-street loading spaces shall be provided in accordance with the following regulations for the area of such expansion. Off-street loading requirements may be modified or waived during the site plan or conditional use review where the applicant can show that existing site constraints limit the application of these standards.
2. **General Provisions.**
 - A. **Location.** All required loading spaces or berths shall be located on the same lot as the use served, and no portion of the vehicle shall project into any traffic lane. All motor vehicle loading berths which abut or are adjacent to a residence district or use shall be completely screened therefrom by building walls, or a uniformly painted solid fence, wall, door, planted screen or any combination thereof, not less than 6 feet nor more than 8 feet in height. No permitted or required loading space or berth shall be located within 40 feet of the nearest point of intersection of any two public streets or highways. No loading space or berth shall be located in a required front yard, and any loading space or berth located in a required rear yard shall be open to the sky.
 - B. **Area.** Unless otherwise specified, a required off-street loading space shall be 10 feet in width by at least 50 feet in length, exclusive of aisle and maneuvering space, and shall have a vertical clearance of at least 16 feet. The required length may be reduced by 10 feet, if the applicant certifies that the off-street loading use will only be single-unit trucks or smaller.
 - C. **Access.** Each required off-street loading space shall be designated with appropriate means of vehicular access to a street, highway or alley in a manner which will least interfere with traffic movement.
 - D. **Surfacing.** All open off-street loading shall be improved with a compacted

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select gravel base, not less than 7 inches thick, surfaced with an all-weather material. [*Ord. 838*]

- E. **Repair and Service.** No motor vehicle repair work or service of any kind shall be permitted in conjunction with any off-street loading facilities.
- F. **Utilization.** Space allocated for any off-street loading berth shall not be used to satisfy the space requirements for any off-street parking facilities or portions thereof.

3. **Required Off-Street Loading Spaces.**

Use	Required Berth (Based on Gross Floor Area)
Manufacturing	One berth for every 10,000 square feet
Wholesale, Other Uses	One berth for every 8,000 square feet
Business and Professional Offices	One berth for every 10,000 square feet, not exceeding a total of two required stalls
Food Stores and Other Retail Stores	One berth for every 5,000 square feet up to a maximum of two stalls and then one berth for every 20,000 square feet or fraction thereof

Uses for which off-street loading facilities are required by this Section, but which are located in buildings that have a floor area that is less than the minimum for which off-street loading facilities are required, shall provide adequate receiving facilities, accessible by motor vehicle, from any adjacent alley, service drive or open space on the same lot, in accordance with the provisions of this Chapter.

(*Ord. 775, 6/15/1983, §140-410; as amended by Ord. 838, 11/9/1988, §140-410*)

§27-411. Environmental Performance Standards.

All uses hereafter established in any zoning district shall comply with the performance standards contained in this Section. The performance standards shall apply to an existing use or structure, or portion thereof, when it is extended, enlarged, moved, structurally altered or reconstructed.

- A. **Fire and Explosive Hazards.** All activities and all storage of flammable and explosive material at any point shall be provided with adequate safety devices against the hazards of fire and explosion and adequate fire-fighting equipment as specified by the Department of Labor and Industry and the laws of the Commonwealth of Pennsylvania. All buildings and structures and activities within such buildings and structures shall conform to the

Borough's Building Code (Chapter 5) and all other applicable Borough ordinances.

- B. **Radioactivity or Electrical Disturbances.** There shall be no activities which emit radioactivity at any point above the most recent background limits set by State and/or Federal regulations. There shall be no radio or electrical disturbance adversely affecting the operation of equipment belonging to someone other than the creator of the disturbance.
- C. **Smoke, Ash, Dust, Fumes, Vapors and Gases.** There shall be no emission of smoke, ash, dust, fumes, vapors or gases which violates applicable Federal, State or Allegheny County laws and regulations.
- D. **Liquid and Solid Wastes.** There shall be no discharge at any point into any public or private sewerage system, or watercourse or into the ground, of any materials in such a way or of such a nature, as will contaminate or otherwise cause the emission of hazardous materials in violation of the laws and regulations of the Commonwealth of Pennsylvania and Allegheny County. All required discharge and disposal permits shall be obtained.
- E. **Glare.** No direct reflected glare whether from any lighting source or production operation shall be visible from adjoining public streets or adjacent lots when viewed by a person standing on ground level. Glare shall be defined as direct or indirect light from such activities of greater than 0.5 foot candle at habitable levels.
- F. **Odor.** There shall be no emission of odorous gases or other matter in such quantities as to be offensive on adjoining streets or adjacent lots. Odor thresholds shall be measured in accordance with ASTM D-1391-57 "Standard Method for Measurement of Odor in Atmospheres (Dilution Method)."
- G. **Noise.**
 - (1) No operation or activity shall cause or create noise in excess of the sound levels prescribed below. For the purposes of this Chapter, the noise level will be measured in decibels (dBA) which indicate the sound pressure level obtained from a frequency weighting network corresponding to the A-scale on a standard sound level meter.
 - (a) **Residential and Conservation Districts.** At no point on or beyond the boundary of any lot within these districts shall the exterior noise level resulting from any use or activity located on such lot exceed a maximum of 75 dBA for more than 1 hour per 24 hours. [*Ord. 955*]
 - (b) **AC-1 and AC-2 Districts.** At no point on or beyond the boundary of any lot within these districts shall the exterior noise level resulting from any use or activity located on such

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lot exceed a maximum of 75 dBA for more than 8 hours per 24 hours. [*Ord. 955*]

- (c) **A-1 Districts.** At no point on or beyond the boundary of any lot within these districts shall the exterior noise level resulting from any use or activity located on such lot exceed a maximum of 75 dBA.
 - (d) Where two zoning districts in which different noise levels are prescribed, share a common boundary, the most restrictive of the noise level standards shall govern.
- (2) The following uses or activities shall be exempted from the noise regulations: (a) noises emanating from construction and/or maintenance activities between 7 a.m. and 9 p.m.; and, (b) noises caused by safety signals, warning devices and other emergency-related activities or uses.
 - (3) In addition to these regulations, all uses or activities within the Borough shall conform to any applicable County, State or Federal noise regulations.

H. **Vibrations.**

- (1) Vibration shall be measured at or beyond any adjacent lot line or residential district line as indicated in Table A below and such measurements shall not exceed the particle velocities so designated. The instrument used for these measurements shall be a three component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions.
- (2) The maximum vibration is given as particle velocity, which may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following formula shall be used:

$$P.V. = 6.28 F \times D$$

P.V. = Particle velocity, inches per second

F = Vibration frequency, cycles per second

D = Single amplitude displacement of the vibration, inches

- (3) The maximum particle velocity shall be the vector sum of the three individual components recorded. Such particle velocity shall not exceed the values given in Table A. Where vibration is produced as discrete impulses, and such impulses do not exceed a frequency of

100 per minute, then the values in Table A may be multiplied by 2.

TABLE A
MAXIMUM GROUND TRANSMITTED VIBRATION
BY ZONING DISTRICT

Vibration Measured in:	Particle Velocity in Inches/Second	
	Adjacent Lot Line	Residential and Conservation Districts
Residential and Conservation Districts	0.02	0.02
Commercial Districts	0.06	0.02
Industrial Districts	0.1	0.02

I. **Storage.** All garbage, trash and rubbish shall be stored in covered, vermin proof containers, and also shall be screened from public view.

J. **Determination of Compliance.**

(1) If during the review of a zoning application it appears that the proposed use or development may violate the performance standards contained in this Section, the Borough may initiate an investigation and may require the applicant to submit such data and evidence as is needed to make an objective determination. The evidence may include such items as:

- (a) Plans of the existing or proposed construction and development.
- (b) A description of the existing or proposed machinery, processes and products.
- (c) Specifications for the mechanisms and techniques used or proposed to be used in restricting the possible emission of any of the dangerous and objectionable elements as set forth in this Part.
- (d) Measurements of the amount or rate of emission of said dangerous and objectionable elements.

(2) In order to determine compliance, the Borough may seek assistance from any County, State or Federal agency having interest in or jurisdiction for the particular environmental issue. The Borough may also require the applicant to submit a report from a qualified

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technical expert certifying that the proposed use does comply with the performance standard(s). The technical expert shall be persons or firms mutually acceptable to the Borough and applicant; in the event agreement cannot be reached on the technical expert, the Borough shall make the selection. The cost of the expert's study and report shall be borne by the applicant. A negative report by the technical expert, as to the proposed use's compliance with the performance standard(s), and the applicant's refusal or inability to make alterations to ensure compliance, shall be a basis for denying approval of the zoning application.

K. **Continuing Enforcement.**

- (1) The Zoning Officer shall investigate any purported violation of the performance standards and, if necessary, request the Borough employ qualified experts to assist in the determination of a violation. The costs for the services of such experts shall be paid by the owner or operator of the facility accused of the violation.
- (2) If the facility is found to be in violation, the owner or operator shall be given a reasonable length of time to correct the violation. If at the conclusion of this time period the violation still exists, and the Borough has agreed to no time extension, the owner or operator shall be in violation of this Chapter and subject to the legal penalties and remedies contained herein.

(Ord. 775, 6/15/1983, §140-411; as amended by Ord. 955, 11/10/1999, §411.7)

§27-412. No-Impact Home-Based Business.

No-impact home-based businesses, which comply with the definition and standards of this Chapter, shall be permitted as an incidental use to any principal dwelling unit in all residential zoning districts as long as the business or commercial activity satisfies the following requirements, except that such permission shall not supersede any deed restriction, covenant or agreement restricting the use of the land, nor any master deed, bylaw or other document applicable to a common interest ownership community:

- A. The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- B. The business shall employ no employees other than family members residing in the dwelling.
- C. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- D. There shall be no outside appearance of a business use, including but not limited to, parking, signs or lights.

- E. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- F. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- G. The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.
- H. The business may not involve any illegal activity. [*Ord. 995*]

(*Ord. 775*, 6/15/1983, §140-412; as amended by *Ord. 988*, 11/13/2002, §9; and by *Ord. 995*, 12/10/2003)

§27-413. Solar Energy, Radio or Television Antenna and Satellite Dish Antenna.

1. Solar Energy Structures.

- A. A solar energy structure may be installed or used only in a rear yard; provided, such structure shall not be located within the minimum required rear yard and further provided that such structure is located a minimum of 20 feet from any property line, has a maximum height of 6 feet, is screened from adjacent property by densely planted compact evergreen hedge, and to the extent possible is painted either black, dark green or brown.
- B. Such a structure may be mounted on the roof provided it has a maximum height of 4 feet above the roof line as measured from the highest point of the roof for flat roofs, deck line for mansard roofs, or the mean height between eaves and ridge for gable, hip, and gambrel roofs and is painted as specified above.
- C. No solar energy structure may be installed or used before securing a building permit.

2. Radio or Television Antenna.

- A. A radio or television antenna accessory to a principal residential use may be installed or used only in a rear yard; provided, that said structure shall not be located in the minimum required rear yard and further provided that such antenna be located a minimum of 20 feet from any property line, has a maximum height of 30 feet, is screened from adjacent properties by large evergreen trees, and to the extent possible is painted black, dark green or brown.

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- B. Such an antenna may be mounted on the roof provided it has a maximum height of 13 feet above the roof line as measured from the highest point of the roof for flat roofs, deck line for mansard roofs or the mean height between eaves and ridge for gable, hip and gambrel roofs, and is painted as specified above.
- C. No radio or television antenna shall be installed or used before securing a building permit.
- D. No radio or television antenna shall be lighted.
- E. This Section shall not be construed as authorizing the construction or use of a tower or other structure for any commercial, institutional or governmental telecommunications, radio, cellular telephone, paging, television or similar use.

[Ord. 908]

3. **Satellite Dish Antenna Structures.**

- A. A satellite dish antenna structure may be installed or used only in a rear yard; provided, such structure is not located in the minimum required rear yard; and further provided, such structure is located a minimum of 20 feet from any property line; has a maximum height of 13 feet above the ground when positioned vertically, a maximum diameter of 10 feet, is screened from adjacent properties by evergreen vegetation to the maximum extent possible without interfering with the antenna's line of sight and to the extent possible is painted black, dark green or brown.
- B. The satellite dish antenna may be located on the roof of a structure only if the owner establishes that:
 - (1) Placement of the satellite dish antenna in the rear yard as required by this Section would effectively preclude reception from any transmitting satellite.
 - (2) The roof of the structure in question can safely support the load of the satellite dish antenna.
 - (3) Design of the satellite dish antenna and its proposed placement on the roof are such that the satellite dish antenna will remain safely secured to the roof during wind gusts of up to 75 miles per hour.
 - (4) The maximum height of the satellite dish antenna is 13 feet above the roof line as measured from the highest point of the roof for flat roofs, deck line for mansard roofs, or the mean height between eaves and ridge for gable, hip and gambrel roofs.
 - (5) The maximum diameter of the satellite dish antenna is 10 feet.

(6) To the extent possible the satellite dish antenna is painted black, dark green or brown.

C. No satellite dish antenna structure shall be installed or used before securing a building permit.

(*Ord. 775, 6/15/1983, §140-413; as added by Ord. 808, 8/13/1986, §140-413; and by Ord. 908, 7/13/1998, §413.2*)

§27-414. Subdivision of Dwellings Erected Prior to January 1, 1991.

Any double house or other multi-family residential dwelling unit erected and used for such purposes on or before January 1, 1991, may be subdivided along a party wall notwithstanding the fact that the minimum yard requirements of this Chapter may not be met as a result of said subdivision. Any such subdivision shall comply with all other applicable requirements of this Chapter, the subdivision and land development regulations [Chapter 22] and other Borough ordinances.

(*Ord. 775, 6/15/1983, §140-414; as added by Ord. 872, 5/22/1991, §2*)

§27-415. Commercial Trading Hour Restrictions.

All business, commercial and trading activities and/or uses in the commercial zoning districts of the Borough shall comply with the trading hour regulations contained in Part 4 of Chapter 13 of the Aspinwall Borough Code of Ordinances, Trading Hours in Commercial Districts, which are incorporated herein by reference.

(*Ord. 775, 6/15/1983; as added by Ord. 995, 12/10/2003*)

§27-416. Outdoor Mechanical Vending Devices.

1. **Application.** No outdoor mechanical vending device (as defined in §21-407 of the Aspinwall Borough Code of Ordinances) shall be placed, displayed, erected, altered, relocated, remodeled, expanded or maintained in a manner that is inconsistent with the provisions of this Chapter and any other applicable Borough ordinances. The following regulations on the placement and display of outdoor mechanical vending devices shall neither replace nor substitute the Borough's sign regulations of this Chapter or any other applicable Borough ordinances. [*Ord. 995*]

2. **Permitted Outdoor Mechanical Vending Devices, Size and Placement Requirements.**

A. **Zoning District Regulations.** Outdoor mechanical vending devices shall only be permitted in the following zoning districts: AC-1; AC-2; AI-1 and A-CD.

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- B. **Number.** No more than two outdoor mechanical vending devices shall be permitted on a lot, as designated by the Allegheny County Block and Lot System.
- C. **Size.** Outdoor mechanical vending devices shall not exceed the following dimensions: Height - 6 feet; Width - 3 feet; and Depth - 3 feet.

(*Ord. 775*, 6/15/1983; as added by *Ord. 976*, 3/9/2001, §140-415; and by *Ord. 995*, 12/10/2003)

PART 5

CONDITIONAL USES

§27-501. Applicability.

Applications for conditional uses, when listed as permissible by this Chapter, shall be approved or denied by Borough Council in accordance with the standards and criteria of this Part.

(Ord. 775, 6/15/1983, §140-601)

§27-502. Application Procedure.

1. Review Procedure.

- A. An application for conditional use approval shall be filed with the Zoning Officer, on forms as prescribed by the Borough, at least 14 days prior to the regular meeting of the Planning Commission. A conditional use application shall not be considered to be administratively complete until all items required by this Chapter, including the application fee and/or deposit, have been received by the Borough.
- B. The Zoning Officer shall review the application to determine whether all materials required by this Chapter have been submitted by the applicant. If all such materials have not been submitted, then the Zoning Officer shall reject the application as being administratively incomplete and shall notify the applicant, in writing, citing the specific deficiencies and the specific requirements of this Chapter that have not been met.
- C. Within 5 days of receipt of an administratively complete application, the Zoning Officer shall submit one copy of the application and any materials submitted therewith to the Borough Solicitor; the Borough Engineer; each member of the Planning Commission; and each member of the Borough Council.
- D. The Planning Commission shall review the application and forward its recommendation to the Borough Council within 45 days of the date of the Borough's receipt of an administratively complete application.
- E. Borough Council shall hold a public hearing, pursuant to public notice, within the time periods and procedures required by the MPC. The public hearing shall commence within 60 days of the date of the filing of an administratively complete application. Public hearings shall be conducted and held in accordance with the applicable provisions of the MPC.
- F. Borough Council shall render a written decision on the conditional use

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application within 45 days of the last hearing. Where the application is contested or denied, the Borough Council decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefor. Conclusions based on any provisions of this Chapter or any other rule, regulation, ordinance or statute shall contain a reference to the provision relied upon and the reasons why the conclusion is deemed appropriate in light of the facts found. Borough Council may attach such reasonable conditions and safeguards, in addition to those expressed in this Chapter, as it may deem necessary to implement the purposes of this Chapter and the MPC.

- G. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date.
- H. All development, construction and use shall be in accordance with the approved conditional use plan unless a revised conditional use application is submitted, approved and filed. The approved conditional use plan shall consist of the application, as submitted, together with all of its attachments and exhibits, as finally approved by the Borough Council, and conditions attached by the Borough Council. Any development contrary to the approved conditional use plan shall constitute a violation of this Chapter.

2. **Application Content.**

- A. All applications for conditional use approval shall demonstrate compliance with the applicable express standards and criteria of this Part and the applicable lot and yard requirements of the zoning district in which the use is proposed.
- B. All applications for conditional use approval shall be submitted to the Zoning Officer, in the form prescribed from time to time by the Borough, with not fewer than six full scale copies and 15 half scale copies of all required maps, and 15 copies of all other application material. An application for conditional use approval shall not be considered administratively complete until all items required by this Chapter, including the application fee and/or deposit, have been received by the Zoning Officer.
- C. All applications for conditional use approval shall contain the following:
 - (1) A land development plan, as defined by this Chapter, and
 - (2) Construction plans, where renovations or modification of an existing building is immediately contemplated, showing the scope, nature and extent of said renovation or modification.

- 3. **Expiration of Approval.** The grant of a conditional use shall expire 1 year after the date of the Borough Council's written decision unless: (1) the applicant has applied for and obtained a building permit and commenced construction, or (2) in

a case where the conditional use does not require the issuance of a building permit, the applicant has applied for and obtained an occupancy permit and has commenced the use which is the subject of the conditional use. Expiration of conditional use approval under this Section shall require the applicant to re-apply for conditional use approval.

(*Ord. 775*, 6/15/1983, §140-602; as amended by *Ord. 939*, 10/14/1998, §4; as amended by *Ord. 995*, 12/10/2003)

§27-503. General Standards and Criteria.

Before approving a conditional use application, Council shall determine that the proposed use will not alter the established character and use of the neighborhood or district in which it is located, and that it will not substantially impair the use or development of adjacent properties. Council shall use the following general standards, among other things, in its evaluation. These standards shall be in addition to any other requirements in this Chapter for a specific type of use or development.

- A. The proposed use complies with all applicable provisions and requirements for that type of use contained in this Chapter, unless a variance to any provision has been granted by the Zoning Hearing Board, and with other applicable Borough, County and Commonwealth and Federal ordinances, laws and regulations. The proposed use shall obtain applicable permits, licenses, approvals from the Borough, Allegheny County, Pennsylvania and Federal agencies before final approval of the conditional use application shall be granted.
- B. The proposed use is compatible with the surrounding land uses. It does not have a negative impact on the existing neighborhood or development in terms of air and water quality, noise, illumination and glare, restrictions to natural light and air circulation or other hazardous conditions that could endanger surrounding residents or impair the use of surrounding properties.
- C. The proposed site for the conditional use is suitable in terms of topography and soil conditions and size, based on number of projected users and the frequency of use of the proposed use.
- D. The proposed use and site provides for safe, adequate vehicular and pedestrian access. It has access from a street capable of handling the traffic generated by the proposed use, and it will not result in undue traffic congestion and hazardous conditions on adjacent streets. The use provides for safe, efficient internal circulation and sufficient off-street parking and loading.
- E. The proposed use complies with all applicable standards and requirements for providing sanitary sewage disposal, water supply, storm drainage, solid and toxic waste storage and disposal.

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- F. The proposed use provides screening or buffer areas as required by this Chapter.
- G. The proposed use/development conforms to the scale, character and exterior appearance of existing structures and uses in the neighborhood in which it is located.

(Ord. 775, 6/15/1983, §140-603)

§27-504. Special Standards and Criteria.

For the types of uses identified in this Section, Council shall also determine that the proposed use complies with these additional standards:

- A. **Group Residences, Family Boarding Homes, Nursing Homes and Institutional Facilities.**
 - (1) Group residences, family boarding homes, nursing homes and institutional facilities are allowed as conditional uses only in the zoning districts listed in this Chapter.
 - (2) In order to prevent the concentration of such uses in a neighborhood and to avoid impacting existing residences, no group residence, family boarding home, nursing home or institutional facility may be located within the same block or within 1,200 feet, whichever is more, of another group residence, family boarding home, nursing home or institutional facility.
 - (3) The number of off-street parking spaces required for a single-family home shall apply for a group residence, family boarding home or institutional facility; provided, that at least one space is provided per resident-supervisor or full-time staff member, and one space per two residents where the facility includes residents capable of operating a motor vehicle. Nursing homes shall comply with the space requirements of §27-409(3).
 - (4) Area and bulk requirements shall be as prescribed for the district where the property is located, unless otherwise stated in this Chapter. In the case of a group residence or family boarding home, Borough Council may reduce these dimensions when such use is to be located in an existing structure.
 - (5) Change of ownership or sponsorship or of any other condition contained in the original approval of the group residence, family boarding/institutional facility or nursing home shall constitute a new use, and the procedure for obtaining conditional use approval of a new facility shall be executed.

- (6) The operator of the group residence, family boarding home, institutional facility or nursing home shall obtain any required licenses or certifications from the appropriate Commonwealth or county agency prior to the conditional use approval. In no case shall an occupancy permit be granted for the facility until proof of such licenses or certifications has been filed with the Borough.

B. Day Care Centers, Private School for Pre-Primary Age Children.

- (1) The operator of the day care center shall obtain the required licenses and approvals from the appropriate Commonwealth agencies prior to approval of the conditional use application and/or the occupancy permit.
- (2) The proposed facility shall provide parking in compliance with this Chapter, and parking areas, regardless of the number of cars, shall be screened as prescribed by §27-409(2)(E) of this Chapter.

C. Amusement Arcades.

- (1) No video game or amusement arcade, as defined by this Chapter, shall be located within 500 feet of a public or private school, public building or fire station, church, public recreation area or establishment licensed or supervised by the Pennsylvania Liquor Control Board.
- (2) The proposed facility shall comply with all provisions of Chapter 13 of this Code providing for the regulation and licensing of arcades.

D. Gasoline Service Stations.

- (1) No gasoline service station shall be located within 1,000 feet of a similar facility.
- (2) Access driveways to the service station shall be at least 30 feet from the intersection of any public streets.
- (3) Fuel pumps, air towers and water outlets may be located outside an enclosed building, provided that no portion of these facilities shall be closer than 15 feet of any property line.
- (4) Inspections, lubrication, oil changes, tire changes and similar minor repairs are permitted if conducted entirely within a building.
- (5) All automobile parts and supplies shall be stored within a building, except that automotive supplies may be displayed for sale at the fuel pump and at a distance no greater than five feet from the pumps.
- (6) All refuse shall be stored within a building or enclosed area.

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- (7) No vehicle shall be stored outdoors during nonbusiness hours; nonoperable vehicles shall not be stored in the open at any time.
- (8) Automobiles, vans (less than 20 feet) or utility trailer rental is an authorized accessory use, provided that no more than three vehicles are visible on the premises at any time.
- (9) Off-street parking spaces shall be provided in accordance with §27-409 of this Chapter.
- (10) The station shall comply with applicable requirements of Chapter 13 of this Code.

E. Automotive Repair Facilities and Carwash.

- (1) All repair services shall be conducted within an enclosed building which complies with State and Borough regulations for such uses.
- (2) All automotive parts and supplies shall be stored within an enclosed building.
- (3) All refuse must be stored within a building or enclosed area.
- (4) No vehicle shall be stored outdoors during nonbusiness hours; nonoperable vehicles shall not be stored in the open at any time.
- (5) Off-street parking spaces shall be provided in accordance with §27-409 of this Chapter.

F. Manufacturing Industries (AI-1 Districts).

- (1) The use shall not include the onsite storage of toxic chemicals, nuclear materials or wastes or other hazardous materials, unless they comply with all applicable Allegheny County, Pennsylvania and Federal laws and/or regulations.
- (2) Where the use includes fuel storage and distribution tanks and related facilities, the minimum lot area shall be two acres and the use shall comply with applicable Borough and Allegheny County fire-prevention requirements.

G. Allegheny River-Oriented Uses (A-CD Districts).

- (1) The proposed use shall be capable of meeting applicable Commonwealth and Federal standards for river usage. The applicant shall submit copies of these governmental agencies' reviews and approvals.
- (2) The use, to the maximum extent feasible, shall provide or maintain

public access to the river.

- (3) The use shall not construct, install or locate any structure or facility which blocks the view of, or restricts access to, the river by another existing use.
- (4) All uses shall endeavor to preserve and maintain the natural features and vegetation of the riverfront area.
- (5) Suitable landscaping shall be provided in accordance with the provisions of this Chapter. However, Council may attach additional requirements during the review of the conditional use application.
- (6) Suitably-improved accessways (streets, walkways, etc.) shall be provided. Council may assess the applicant a proportional share of the cost for the improvement of any public right-of-way.
- (7) A riverfront use may place a directional sign, not exceeding 2 square feet, along Freeport Road, indicating the access to the use. Documentation of the approval of the property owner, where the sign is to be located, must be submitted with the conditional use application.

H. Uses Which Do Not Meet Off-Street Parking Requirements in the AC-1 and AC-2 Zones.

- (1) In the event a use permitted as either a permitted use or a conditional use in the AC-1, Community Business District or the AC-2 General Commercial District does not comply with the off-street parking requirements of §§27-409 and 27-410 of this Chapter, said use may be permitted as a conditional use, provided the applicant complies with the requirements of §§27-503 and this subsection of this Chapter.
- (2) In order to obtain a conditional use under this Section, the applicant bears the burden of establishing to the satisfaction of the Borough Council that the applicant has made alternative arrangements for adequate off-street parking. The applicant may do so by establishing, individually or in combination, to the satisfaction of Borough Council, that:
 - (a) The applicant has secured the required number of off-street parking spaces on the property or within 600 feet, and although the applicant may not own or has not procured a lease of a term required by this Chapter, the applicant has otherwise adequately demonstrated that the spaces will be available for applicant's use.
 - (b) The applicant has secured the required number of off-street

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parking spaces, and although all or portion of the same are located more than 600 feet from the entrance to the subject property, the applicant has shown that adequate arrangements for valet parking or shuttle bus service will be provided.

- (c) The applicant submits a traffic/parking study prepared by a qualified traffic/parking engineer demonstrating that the nature and use of the subject property is such that the number of off-street parking spaces to be provided by the applicant is adequate to service the proposed use.
 - (d) The applicant submits a traffic/parking study prepared by a qualified traffic/parking engineer demonstrating that because of the anticipated time and days of usage of the subject property, adequate parking spaces are available on-street or in public parking lots to adequately service both the proposed use as well as current and projected baseline demand for on-street and public parking lot spaces.
 - (e) The applicant has made alternative arrangements for the parking of vehicles to be operated by the applicant, applicant's employees, vendors or others so that these individuals will not be utilizing on-street or public parking lot spaces or the off-street parking spaces otherwise being dedicated to the proposed use.
 - (f) The applicant has made adequate valet parking arrangements to alleviate any deficiency in required off-street parking spaces.
 - (g) The applicant can demonstrate that any deficiency in parking spaces will be accommodated by the use of a public transit stop located within 600 feet of the entrance to the subject property.
 - (h) The applicant has made other arrangements satisfactory to the Borough Council establishing that the off-street parking to be provided by the applicant will be adequate.
- (3) The applicant shall comply with all other requirements of this Chapter applicable to the use and zoning district in question and all other requirements of Chapter 22 of the Aspinwall Borough Code, subdivision and land development regulations.
 - (4) Prior to the public hearing before the Borough Council, the applicant shall submit all studies, documents and testimony which applicant wishes to be considered in connection with its conditional use application for review and recommendation by the Borough Planning

Commission.

- (5) When granting a conditional use pursuant to this Section, the Borough Council may impose any reasonable conditions it believes are necessary to ensure that adequate off-street parking will be provided by the applicant and to ensure that the use otherwise complies with all applicable requirements of this Chapter and Chapter 22 of the Aspinwall Borough Code, subdivision and land development regulations.

[*Ord. 908*]

I. Uses Not Specifically Listed as Permitted or Conditional Uses.

- (1) Uses which are not specifically listed as permitted or conditional uses in any zoning district may be authorized in the AI-1 Limited Industrial District by the Aspinwall Borough Council as conditional uses. [*Ord. 1001*]
- (2) In order to obtain a conditional use under this Section, the applicant bears the burden of establishing the following to the satisfaction of the Borough Council:
 - (a) The proposed use must be fully consistent and in harmony with the purpose of the district in which it will be located.
 - (b) The impact of the use on the environment and adjacent streets is equal to or less than any use specifically permitted as a permitted or conditional use in the subject district.
 - (c) In determining the impact on the environment and adjacent properties, the Borough Council shall consider such development characteristics as the number of employees, the floor area of the proposed building devoted to the proposed use, the type of products involved, the materials, equipment or services involved, the magnitude of walk-in trade, traffic generation, parking demand, environmental impacts, and any other information that Borough Council determines will aid in determining the impact of the use.
 - (d) The proposed use shall comply with the expressed standards and criteria of the zoning district in which the use is to be located and all other requirements of this Chapter and Chapter 2 of the Aspinwall Borough Code, subdivision and land development regulations.
 - (e) The proposed use shall be in accordance with the community objectives of this Chapter and the Comprehensive Plan of the Borough of Aspinwall, as adopted and amended.

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- (3) Prior to the public hearing before the Borough Council, the applicant shall submit all studies, documents and testimony which applicant wishes to be considered in connection with the conditional use application, for review and recommendation by the Borough Planning Commission.
- (4) When granting a conditional use pursuant to this Section, the Borough Council may impose any reasonable conditions it believes are necessary to ensure compliance with this Chapter and Chapter 22 of the Aspinwall Borough Code, subdivision and land development regulations.

[Ord. 908]

J. **Communications Equipment Building and Communications Tower.**

- (1) The applicant shall demonstrate that it is licensed by the Federal Communications Commission to operate a communications tower and communications antenna, as applicable.
- (2) The applicant shall demonstrate that the proposed communications and communications antenna proposed to be mounted thereon comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
- (3) A communications antenna shall comply with all applicable Federal Aviation Administration, Commonwealth Bureau of Aviation and applicable airport zoning regulations.
- (4) Any applicant proposing construction of a new communications tower shall demonstrate that a good faith effort has been made to obtain permission to mount the communications antenna on an existing building, structure or communications tower. A good faith effort shall require all owners of potentially suitable building, structure or communications tower within a 1/4 mile radius of the proposed communications tower site be contacted and that one or more of the following reasons for not selecting such building, structure or communications tower apply:
 - (a) The proposed antenna and related equipment would exceed the structure capacity of the existing building, structure or communications tower and its reinforcement cannot be accomplished at a reasonable cost.
 - (b) The proposed antenna and related equipment would cause radio frequency interference with other existing equipment for that existing building, structure or communications tower and the interference cannot be prevented at a reasonable cost.

- (c) Such existing building, structure or communications tower do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function.
 - (d) Addition of the proposed antenna and related equipment would result in electromagnetic radiation from such building, structure or communications tower exceeding applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
 - (e) A commercially reasonable agreement could not be reached with the owners of such building, structure or communications tower.
- (5) Access shall be provided to the communications tower and communications equipment building by means of a public street or easement to a public street. Any such easement shall be a minimum of 20 feet in width and shall be paved to a width of at least 10 feet with concrete, bituminous asphalt or bituminous seal coat for its entire length and in accordance with applicable Borough ordinances governing the construction of public streets.
- (6) The applicant shall demonstrate that the proposed height of the communications tower is the minimum height necessary to perform its function. For any proposed communications tower with a height in excess of 75 feet, the applicant shall deposit with the Borough an engineering review deposit as may be deemed appropriate by the Borough Engineer, which deposit shall be in addition to any other required application and/or engineering fees. This deposit shall be used by the Borough to retain an independent, certified engineer knowledgeable in the field of communications towers to review the application and to express an opinion as to the minimum height necessary for the proposed communications tower to perform its function. In the event that the fees actually incurred for said engineering review exceed the amount of the deposit, the applicant shall tender payment of the amount owed. In the event that the fees actually incurred for said engineering review are less than the amount of the deposit, the balance shall be refunded and/or credited to the applicant.
- (7) The foundation and base of any communications tower shall be set back from the nearest adjoining property or lease lines, whichever is closer to the proposed communications tower, a distance equivalent to the height of the proposed tower.
- (8) The maximum height of any communications tower shall be 75 feet; provided, however, that such height may be increased by no more

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than an additional 75 feet as long as an independent, certified engineer retained under subsection (F), above, expresses an opinion that the additional height necessary for the proposed communications tower to perform its function. Regardless of height, all communications towers shall remain subject to the setback requirements of subsection (G), above.

- (9) There shall be a maximum of one communications tower per lot, regardless of lease lines.
- (10) The base of the a communications tower shall be landscaped so as to screen the foundation and base and communications equipment building from abutting properties.
- (11) The communications tower building shall comply with the required yard and height requirements of the applicable zoning district for an accessory structure; provided, that the building footprint of the communications equipment building is equal or less than 100 square feet. If the building footprint of the communication equipment building is greater than 100 square feet, the building shall comply with the required yard and height regulations of the applicable zoning district for a principal building or structure.
- (12) The applicant shall submit certification from a Pennsylvania registered professional engineer that any proposed communications tower will be designed and constructed in accordance with the current structural standards for Steel Antenna Towers and Antenna Supporting Structures published by the Electrical Industrial Association/Telecommunications Industry Association and applicable requirements of Chapter 5 of the Aspinwall Borough Code, Building Construction.
- (13) The applicant shall submit a copy of its current Federal Communications Commission license; the name, address, emergency telephone number for the operator of the communications tower; and a certificate of insurance evidence general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the communications tower and any communications antenna located thereon.
- (14) All guy wires associated with a guyed communication tower shall be clearly marked so as to be visible at all times and shall be located within a fenced enclosure.
- (15) The site of a communications tower shall be secured by a fence with a minimum height of 4 feet and a maximum height of 8 feet and containing only self-latching gates to limit accessibility by the general public.

- (16) No signs or lights shall be mounted on a communications tower, except as may be required by the Federal Communications Commission, Federal Aviation Administration or other governmental agency which has jurisdiction.
- (17) A communications tower shall be protected and maintained in accordance with the requirements of Chapter 5 of the Aspinwall Borough Code, Building Construction, and Chapter 5 of the Aspinwall Code, Property Maintenance.
- (18) If a communications tower remains unused for a period of 12 consecutive months, the owner or operator shall dismantle and remove the communications tower within 6 months of the expiration of such 12 month period.
- (19) Two off-street parking spaces shall be provided within the fenced area.
- (20) All tower structures shall be fitted with anti-climbing devices as recommended by the tower manufacturer for the type of installation proposed.

[*Ord. 939*]

K. Adult Oriented Businesses. [*Ord. 995*]

- (1) Adult oriented businesses may be established and operated only in AI-1 Limited Industrial Districts. [*Ord. 995*]
- (2) Persons or owners who intend to open a adult oriented business must obtain from the Borough a license to operate such an enterprise pursuant to Chapter 13, Part 8, of the Aspinwall Borough Code, Adult Oriented Businesses, and must pay to the Borough an investigation fee as may be set from time to time by resolution of Borough Council. In addition, such persons or owners must supply to the Borough detailed information as to the ownership and financing as required pursuant to Chapter 13, Part 8, of the Aspinwall Borough Code, Adult Oriented Businesses. [*Ord. 995*]
- (3) No adult oriented business may be opened or operated if the establishment would be within 300 feet of a preexisting school, hospital, nursing home, group care facility, park, church, establishment which is licensed to and does sell alcoholic beverages or other adult business. [*Ord. 995*]
- (4) An adult oriented business shall be initially licensed, where it has met the requirements set forth in Chapter 13, Part 8, of the Aspinwall Borough Code, Adult Oriented Businesses, through December 31 of the year in which the license is issued. For each year thereafter that the adult oriented business intends to continue as an

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adult oriented business, it must seek from the Borough a renewal of the license. The lack of a valid license at any time shall be a proper basis for the Borough to deny or revoke an occupancy permit to an adult oriented business. [*Ord. 995*]

- (5) Any adult oriented business found to be in violation of this Section, as amended, shall be subject to the enforcement penalties of both Part 7 of this Chapter, Administration and Enforcement, and Chapter 13, Part 8, of the Aspinwall Borough Code, Adult Oriented Businesses. [*Ord. 995*]

[*Ord. 949*]

(*Ord. 775*, 6/15/1983, §140-604; as amended by *Ord. 908*, 7/13/1995, §140-604; by *Ord. 938*, 10/14/1998, §6; by *Ord. 949*, 4/14/1999, §3; by *Ord. 995*, 12/10/2003; and by *Ord. 1001*, 10/13/2004, §6)

PART 6

NONCONFORMITIES

§27-601. Definitions.

NONCONFORMING BUILDING or STRUCTURE - a structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in this Chapter, its predecessors or any amendments thereto, such as minimum yard, maximum lot coverage, maximum height and off-street parking requirements, where such structure lawfully existed prior to enactment of this Chapter, its predecessors or amendments thereto. Such nonconforming structures include, but are not limited to, nonconforming signs.

NONCONFORMING LOT - a lot the area or dimension of which was lawful prior to the adoption of this Chapter, its predecessor or any amendments thereto, but which fails to conform to the requirements of the zoning district in which it is located, such as minimum lot area requirements, by reasons of such adoption or amendments.

NONCONFORMING USE - a use, whether of land or of a structure, which does not comply with the applicable use provisions in this Chapter, its predecessor or any amendments thereto, where such use was lawfully in existence prior to enactment of this Chapter, its predecessors or amendments thereto.

(Ord. 775, 6/15/1983, §140-701; as amended by Ord. 851, 7/12/1989, §1)

§27-602. Continuation.

Subject to the provisions of this Section, a nonconforming lot, nonconforming building or structure or nonconforming use may be continued even though such does not conform with the provisions of these regulations for the district in which it is located. The Zoning Officer may keep and maintain a list of all nonconforming lots, buildings and structures or uses existing at the time of the passage of this Chapter, its predecessors or amendments thereto, and which may come to exist in the future.

(Ord. 775, 6/15/1983, §140-702; as amended by Ord. 851, 7/12/1989, §1)

§27-603. Alterations, Repair, Enlargement, Reconstruction of Nonconforming Buildings and Structures.

1. Nothing in this Chapter shall prevent the strengthening or restoring to a safe condition of any portion of a building or structure declared unsafe by a proper authority.
2. A nonconforming building or structure (excluding signs) may be altered, improved or reconstructed provided that the total cost of such work does not exceed 50% of

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the fair market value of the structure at the time of the requested alteration and that the work does not make the structure any more nonconforming in any aspect. This cost limitation does not apply to the extent the work involves bringing the structure into conformance with applicable zoning regulations.

3. If a nonconforming building or structure, or use thereof, is destroyed totally or partially by fire, collapse, explosion or other disaster, it may be reconstructed (and the nonconforming use thereof continued), if work commences within one year of the date of destruction and is pursued diligently to completion. However, reconstruction shall not make the building, structure or use more nonconforming, in any aspect, than it was prior to destruction. Reconstruction must comply with applicable State and local building codes.

(*Ord. 775, 6/15/1983, §140-703; as amended by Ord. 851, 7/12/1989, §1*)

§27-604. Alteration, Enlargement or Expansion of a Nonconforming Use.

1. **Residential Districts.** In any residential district, nonconforming uses may expand up to 25% of the gross floor area utilized for the nonconforming use (measured in square feet), to allow for continuation and reasonable growth of the use; provided, however, any such expansion shall comply with all other provisions of this Chapter including, but not limited to, all applicable area and bulk requirements and off-street parking and loading requirements. Nothing in this Section shall be construed as authorizing the expansion of a nonconforming building or structure or a nonconforming lot.
2. **Commercial, Industrial Districts.** In any commercial or industrial district, a nonconforming use may expand up to 50% of the original building or lot area (measured in square feet), in accordance with the same conditions stated in subsection (1).

(*Ord. 775, 6/15/1983, §140-704; as amended by Ord. 851, 7/12/1989, §1*)

§27-605. Change of Use.

A nonconforming use may be changed to a similar nonconforming use within the same type of use category. When a nonconforming use is changed to a permitted one, it shall not be subsequently changed to a nonconforming use. A change of one nonconforming use to another nonconforming use required review and approval by the Zoning Hearing Board, in accordance with §27-705(6)(F) of this Chapter.

(*Ord. 775, 6/15/1983, §140-705; as amended by Ord. 851, 7/12/1989, §1*)

§27-606. Construction Approved Prior to Adoption.

Nothing in this Chapter or any amendment thereto shall require any change in plans,

construction or designated use of a building or structure for which a building permit has been issued prior to the adoption of this Chapter or amendment thereto and the construction of which shall have been diligently prosecuted within 6 months of the date of the issuance of such permit, and the entire building completed according to approved plans within 1 year of the enactment of this Chapter or any applicable amendment thereto.

(*Ord. 775, 6/15/1983, §140-706; as amended by Ord. 851, 7/12/1989, §1*)

§27-607. Abandonment.

A nonconforming use of a building or land which has been abandoned shall not thereafter be returned to such nonconforming use. A nonconforming use shall be considered abandoned when one or more of the following conditions apply:

- A. The intent of the owner to discontinue the use is apparent.
- B. A nonconforming use has been discontinued for a period of 6 months, unless other facts show intention to resume the nonconforming use.
- C. It has been replaced by a conforming use.
- D. It has been changed to another nonconforming use as authorized by the Zoning Hearing Board.

(*Ord. 775, 6/15/1983, §140-707; as amended by Ord. 851, 7/12/1989, §1*)

§27-608. Unlawful Use Not Authorized.

Nothing in this Chapter shall be interpreted as authorization for or approval of the continuance of the use of a structure or premises in violation of zoning regulations in effect at the time of the effective date of this Chapter, its predecessors or any amendment thereto.

(*Ord. 775, 6/15/1983, §140-708; as amended by Ord. 851, 7/12/1989, §1*)

§27-609. District Changes.

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to a district of a different classification, the foregoing provisions shall apply to any nonconforming uses, nonconforming buildings or structures or nonconforming lots existing therein.

(*Ord. 775, 6/15/1983, §140-709; as amended by Ord. 851, 7/12/1989, §1*)

§27-610. Nonconforming Lot.

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1. In any residential district, notwithstanding the regulations imposed by any other provision of this Chapter, a single-family detached dwelling which complies with all applicable zoning restrictions except for lot area may be erected; provided, that the following requirements are met:
 - A. The lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size, at such location, was not prohibited by any zoning ordinance or Chapter then in effect.
 - B. The lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by this Chapter.
2. Construction permitted by the above shall comply with all the regulations, except lot area and minimum yard requirements, applicable to single-family dwellings in the zoning district in which the lot in question is located. However, the following minimum yard requirements shall apply:
 - A. **Front Yards.** As prescribed by the regulations for the zoning district in which the lot is located or by the provision for front yard exceptions in Part 4 of this Chapter.
 - B. **Side Yards.** The dwelling shall be placed on the lot so as to provide two side yards. A side yard shall not be less than the smaller of: (1) 2 1/2 feet; or, (2) the minimum side yard prescribed by the regulations for the applicable zoning district.
 - C. **Rear Yard.** A rear yard shall not be less than the smaller of (1) the minimum rear yard prescribed by the regulations for the zoning district in which the lot is located; or, (2) 10 feet.

(Ord. 775, 6/15/1983, §140-710; as amended by Ord. 851, 7/12/1989, §1)

§27-611. Status of Conditional Uses.

1. Any use, for which a conditional use permit has been issued as provided by this Chapter, shall not be deemed to be a nonconforming use, but it shall be deemed a lawful conforming use.
2. Where a use exists at the effective date of this Chapter and is permitted by this Chapter only as a conditional use in the zoning district in which it is located, then it shall be deemed to be a lawful conforming use in such zoning district.

(Ord. 775, 6/15/1983, §140-711; as amended by Ord. 851, 7/12/1989, §1)

§27-612. Termination of Nonconforming Signs.

1. Any existing signs which are now or may hereafter constitute nonconforming signs under the provisions of this Chapter shall not be enlarged or altered in any aspect, except to make safety improvements or changes which will make the sign conforming, or more conforming, to the provisions of this Chapter or amendment thereto.
2. If at any time the owner or operator of a nonconforming sign, either voluntarily or through municipal enforcement action, proposes or is required to remodel, reconstruct, alter, expand or repair a nonconforming sign, the cost of which work is reasonably estimated to be 50% or more of the estimated cost to construct a new sign of like size and design at the same location, then such sign shall be brought into conformance with this Chapter or amendment thereto as part of the work.
3. Any nonconforming sign which shall fall into disrepair shall be deemed to be abandoned upon the expiration of 30 days from the date of any notice of the Zoning Officer to bring such sign into proper maintenance and condition. After any such abandonment, the nonconforming sign shall be made conforming under this Chapter or amendment thereto prior to any reuse of the sign.

(*Ord. 775*, 6/15/1983, §140-712; as amended by *Ord. 851*, 7/12/1989, §1; and by *Ord. 939*, 12/14/1998, §3)

PART 7

ADMINISTRATION AND ENFORCEMENT

§27-701. Zoning Officer.

1. **Appointment.** The Zoning Officer shall be appointed by Borough Council and shall administer and enforce this Chapter.
2. **Duties of the Zoning Officer.** In order to administer and enforce properly this Chapter, the Zoning Officer shall:
 - A. Receive all applications for zoning use and zoning occupancy permits and maintain records thereof. Forward to the Planning Commission all applications requiring site plan review in accordance with Part 5 of this Chapter and all applications for signs.
 - B. Receive, file and forward to Borough Council all applications for conditional uses and maintain records thereof.
 - C. Issue zoning use and zoning occupancy permits for all applications that have been reviewed and approved according to the provisions of this Chapter and other applicable ordinances.
 - D. Receive, review and issue permits for: (1) applications for zoning use and zoning occupancy permits that do not require a site plan review or conditional use approval; and, (2) applications for fences, accessory uses (excluding signs) and temporary uses.
 - E. Receive, file and forward to the Zoning Hearing Board the records in all appeals and all applications for variances and changes of nonconforming uses and maintain records thereof.
 - F. Inspect buildings, structures and uses of land to determine compliance with the provisions of the Chapter.
 - G. Issue enforcement notices for violation of any provision of this Chapter to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record of the parcel. The enforcement notice shall be delivered personally or by certified mail. The enforcement notice shall state at least the following:
 - (1) The name of the owner of record and any other person against whom the municipality intends to take action.

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- (2) The location of the property in violation.
 - (3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Chapter.
 - (4) The date before which steps for compliance must be commenced and the date before which the steps must be completed.
 - (5) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within 10 days of receipt of the enforcement notice pursuant to the procedures set forth in this Chapter.
 - (6) That failure to comply with the enforcement notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation with possible sanctions clearly described.
- H. Initiate civil enforcement proceedings for failure to comply with enforcement notices unless the Borough Council, after receipt of the enforcement notice, directs to the contrary by motion or resolution.
- I. Institute, with approval of or at direction of Borough Council, appropriate equitable enforcement action to prevent, restrain, abate or correct any violation of this Chapter.
- J. Revoke any order or zoning use or zoning occupancy permit issued under a mistake of fact or contrary to the provisions of this Chapter.
- K. The Zoning Officer may make and maintain accurate and current records of all legal nonconformities under this Chapter.

(Ord. 775, 6/15/1983, §140-801; as amended by Ord. 851, 7/12/1989, §2)

§27-702. Required Zoning Permits.

1. General. [Ord. 995]

- A. No use of land shall be made or any building or structure constructed, altered, remodeled, sold, leased, occupied or used, nor any existing use of a building, structure of land be changed until a zoning use permit and a zoning occupancy permit have been issued by the Zoning Officer. [Ord. 887]
- B. The improvements of land preliminary to any use of such land shall not be commenced prior to the issuance of the zoning use permit.
- C. Any permit issued in conflict with the provisions of this Chapter shall be null and void.

2. Permit Application and Issuance Procedure.

- A. Whenever the proposed activity, whether new construction or alteration of an existing use requires a building permit (under the Borough Building Code, Chapter 5), the applications for the zoning use permit and zoning occupancy permit shall be made prior to or simultaneously with the application for the building permit. However, the building permit shall not be issued until the zoning use permit has been granted.
- B. When no building permit is required, the application for the zoning use permit and zoning occupancy permit may be made at any time prior to the use or occupancy of the structure or land.
- C. Permit applications shall be submitted in writing on such forms or in such format as established by the Borough. The Zoning Officer may request any information necessary to determine the application's compliance with this Chapter.
- D. The Zoning Officer shall not issue the zoning use permit or zoning occupancy permit unless the property complies with this Chapter, the Borough Building Code [Chapter 5, Part 1], the Borough Property Maintenance Code [Chapter 5, Part 2], the Borough Subdivision and Land Development Ordinance [Chapter 22], and all other applicable Borough, County, State and Federal laws, ordinances and regulations, and until all other required approvals and permits have been obtained from applicable Borough, County, State and Federal agencies. The applicant shall submit copies of all such required approvals and permits to the Zoning Officer. [*Ord. 995*]
- E. Where approvals are not required by other Borough agencies or governmental entities, the Zoning Officer shall review and approve or disapprove the application. However, the Zoning Officer may seek the advice and recommendations of the Planning Commission on any application.
- F. An application for a zoning use permit does not permit occupancy. A zoning occupancy permit is also required. Under certain circumstances, application for any approval of a zoning use permit and zoning occupancy permit may be combined.
- G. Upon completion of the applied-for work, the applicant shall notify the Zoning Officer who shall examine the building, structure or use of land involved. If the Zoning Officer shall find that such construction, erection, structural alteration or use of building and land has been completed in accordance with the provisions of this Chapter and other applicable ordinances, the zoning occupancy permit shall be issued.
- H. As a precondition to the issuance of any zoning use permit or zoning occupancy permit, a landowner shall permit the Zoning Officer to inspect

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both the exterior and interior of the property, as deemed necessary by the Zoning Officer. Any failure or refusal to permit such inspection shall result in denial of any application for zoning use permit or zoning occupancy permit. [*Ord. 887*]

- I. The Borough shall not issue a no-lien letter in connection with the sale of any property in the Borough unless and until either the proposed buyer or proposed seller has applied for and obtained a zoning occupancy permit in connection with the sale of the property. [*Ord. 887*]
3. **Period of Validity.**
 - A. A zoning use permit shall become null and void within 6 months of the date of issuance unless the construction, altering, remodeling of a building or structure is commenced or a use of land or building is commenced.
 - B. A nonresidential zoning occupancy permit shall be valid for a period of 1 year. The landowner shall be responsible for applying for a renewed permit prior to the expiration of an existing permit. The Zoning Officer shall be responsible for scheduling inspections related thereto.
[*Ord. 977*]
 4. **Temporary Zoning Use and Zoning Occupancy Permits.** The Zoning Officer may issue a temporary zoning permit which may allow the use or occupancy of a building or structure during structural alteration thereof or may permit the partial use or occupancy of a building or structure during its construction or erection; provided, however, that such a temporary permit shall be valid only for a period not exceeding 6 months from its issuance and shall be subject to such restrictions and provisions as may be deemed necessary by the Zoning Officer to ensure the safety of persons using or occupying the building, structure or land involved.

(*Ord. 775*, 6/15/1983, §140-802; as amended by *Ord. 851*, 7/12/1989, §2; by *Ord. 887*, 8/12/1992, §140-802; by *Ord. 977*, 3/9/2001, §140-802; and by *Ord. 995*, 12/10/2003)

§27-703. Schedule of Fees.

Borough Council shall establish, from time to time, fees and charges for all permits and applications required by this Chapter. This schedule, along with an explanation of the collection procedure, shall be posted in the offices of the Borough Manager. All fees and charges shall be adopted by resolution of Borough Council at any regular or special meeting.

(*Ord. 775*, 6/15/1983, §140-803; as amended by *Ord. 851*, 7/12/1989, §2)

§27-704. The Planning Commission.

1. The Aspinwall Planning Commission shall be appointed by Borough Council as prescribed by the Pennsylvania Municipalities Planning Code and Chapter 1, Planning Commission, of this Code.
2. The Planning Commission shall perform the following duties:
 - A. Submit by March 1 of each year a report to Borough Council outlining any substantive or administrative problems that have been identified in this Chapter along with recommended changes to correct the problems; and any recommended changes in this Chapter to reflect changes in development conditions, land uses, population, public services and facilities or similar conditions.
 - B. Prepare and make recommendations to Borough Council on proposed amendments to this Chapter and the Zoning Map.
 - C. Review and approve or deny all applications for signs, except temporary signs . [*Ord. 995*]
 - D. Review and make recommendations to Borough Council on conditional use applications.
 - E. Review and make recommendations to the Zoning Hearing Board on applications for variances.
 - F. Provide technical and consultative assistance to other Borough boards, commissions and officials in exercise of their duties relating to this Chapter.
 - G. Maintain accurate and current records of all actions taken by it in relation to the provisions of this Chapter.
 - H. Where requested by the Zoning Officer pursuant to §27-702 of this Chapter, render advice and recommendations on any application.

(*Ord. 775*, 6/15/1983, §140-804; as amended by *Ord. 851*, 7/12/1989, §2; and by *Ord. 995*, 12/10/2003)

§27-705. Zoning Hearing Board.

1. **Membership of the Board.** The membership of the Board shall be three residents of the Borough appointed by Borough Council. Their terms of office shall be 3 years and so fixed that the term of office of one member shall expire each year. The Borough Council may appoint alternate members of the Board pursuant to the constraints of the MPC, who shall serve according to the restrictions of the MPC. The Board shall promptly notify Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members and alternate members of the Board shall hold no other office in the

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Borough. [*Ord. 995*]

2. **Removal of Members.** Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of Borough Council, taken after the member has received 15 days advance notice of the intent to take such a vote. A public hearing shall be held in connection with the vote if the member shall request it in writing.
3. **Organization of the Board.** The Board shall elect its officers from its own membership, who shall serve annual terms and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be a majority of all the members of the Board, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf, and parties may waive further action by the Board as provided in subsection (5)(A), below. The Board may make, alter and rescind rules and forms for its procedure consistent with the ordinances of the Borough and laws of the Commonwealth. The Board shall keep full public records of its business which records shall be the property of the Borough, and submit a report of its activities to Borough Council as requested by Borough Council.
4. **Expenditures for Services.** Within the limits of funds appropriated by Borough Council, the Zoning Hearing Board may employ or contract for secretaries, clerks, zoning officers, legal counsel, consultants and other technical and clerical services. Members of the Zoning Hearing Board may receive compensation for the performance of their duties, as may be fixed by Borough Council, but in no case shall it exceed the rate of compensation authorized to be paid to the members of Borough Council.
5. **Conduct of Public Hearings.** The public hearing shall commence within 60 days of the filing of an administratively complete application. Public notice, as defined herein, of the public hearing shall be advertised and posted as required by the MPC, and in addition thereto the Zoning Hearing Board shall post at least one copy of the notice on the affected property and shall mail a copy of the notice by regular mail at least 1 week prior to the hearing to each adjoining property owner, including those located across a public right-of-way. Public hearings shall be conducted and held in accordance with the applicable provisions of the Municipalities Planning Code. The Zoning Hearing Board shall comply with all requirements of Article IX of the Municipalities Planning Code regarding the conduct of hearings. [*Ord. 995*]
6. **Board Decisions.**
 - A. The Zoning Hearing Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application in accordance with the requirements of the MPC and within 45 days after the last hearing before the Zoning Hearing Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based

thereon, together with the reasons therefore. Conclusions based on any provisions of this Chapter or any other land use ordinance, rule or regulation or any provision of the Municipalities Planning Code shall contain a reference to the provisions relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer and there has been no stipulation that his/her decision or findings are final, the Zoning Hearing Board shall make his/her report and recommendations available to the parties within 45 days, and the parties shall be entitled to make written representations thereon to the Zoning Hearing Board prior to final decision or entry of findings, and the Zoning Hearing Board's decision shall be entered no later than 30 days after the report of the hearing officer.

- B. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him no later than the day following its date.

[*Ord. 995*]

7. **Functions of the Board.**

- A. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
 - (1) Substantive challenges to the validity of this Chapter, except those challenges brought before the Borough Council pursuant to §§609.1 and 916.1(a)(2) of the Pennsylvania Municipalities Planning Code.
 - (2) Challenges to the validity of this Chapter raising procedural questions or alleged defects in the process of enactment or adoption, which challenges shall be raised by an appeal taken within 30 days after the effective date of this Chapter or any amendment thereto.
 - (3) 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 enforcement notice or the registration or refusal to register any nonconforming use, structure or lot.
 - (4) Appeals from a determination by the Borough Engineer or the Zoning Officer with reference to the administration of Chapter 8 of the Aspinwall Borough Code, "Floodplain Management."
 - (5) Applications for variances from the terms of this Chapter and Chapter 8 of the Aspinwall Borough Code, "Floodplain Management."
 - (6) Appeals from the Zoning Officer's preliminary opinion determination as authorized by §916.2 of the Pennsylvania Municipalities Planning

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Code.

- (7) Changes in nonconforming uses pursuant to the provisions of this Part and subsection (6)(F) of this Part.
- (8) Appeals from a determination of the Planning Commission regarding the approval or denial of a sign application. [*Ord. 995*]

B. Reserved.

C. **Variances.**

- (1) **Application.** The Board shall hear requests for variances where it is alleged that the strict application of the provisions of this Chapter inflict unnecessary hardship upon the applicant. Application for a variance shall be made in writing on the prescribed form obtained from the Zoning Officer. The Zoning Officer shall forward the application to the Board, which shall determine a time and place of the hearing.
- (2) **Standards for Variances.** The Board may grant a variance, provided that all the following findings are made where relevant in a given case:
 - (a) That there are unique physical circumstances or conditions including irregularity, narrowness or shallowness of lot size or shape or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Chapter in the neighborhood or district in which the property is located.
 - (b) That, because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Chapter; and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
 - (c) That such unnecessary hardship had not been created by the applicant.
 - (d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare.

(e) That the variance, if authorized, will represent the minimum variance which will afford relief and represent the least modification possible of the regulation in issue.

(3) **Procedure for Variances.** The Board shall request the review and comments of the Planning Commission on any variance application, which shall be made part of the public record. In granting any variances, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Chapter and the Pennsylvania Municipalities Planning Code.

D. Reserved.

E. Reserved.

F. **Changes of Nonconforming Uses.** In accordance with Part 6 of this Chapter, the Zoning Hearing Board shall hear requests for a change of one nonconforming use to another nonconforming use. Before approving an application, the Board shall determine that:

(1) The proposed use is within the same type of use category as the original nonconforming use, such as one personal service business to another. In making a determination of similar uses, the Board shall be guided by the definitions in this Chapter or, where not so defined, Federal Office of Management and Budget's Standard Industrial Classification Manual (current edition).

(2) The proposed use will not be any more objectionable than the original nonconforming use in terms of traffic generation and requirements for off-street parking and loading; outdoor storage of wastes, materials, supplies and equipment; minimum yard, height, area and volume of all structures.

(3) The proposed use can comply with the applicable performance standards for noise, air and water quality, glare, odors, fire and explosive hazards, vibrations, screening, Stormwater and floodplain management contained in Part 4 of this Chapter.

7. **Parties Appellant Before the Board.** Appeals under subsections (6)(A)(1), (6)(A)(2), (6)(A)(3), (6)(A)(4), (6)(A)(6) and (6)(A)(7), of this Chapter may be filed with the Board in writing by the landowner affected, by any officer or agency of the Borough or any person aggrieved. Requests for a variance under subsections (6)(1)(E) and (6)(C) of this Section may be filed with the Board only by a landowner or any tenant with the permission of such landowner.

8. **Time Limitations.**

A. No person shall be allowed to file any proceeding with the Board later than

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30 days after an application for development, preliminary or final, has been approved by an appropriate Borough 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.

- B. The failure of anyone, other than the landowner, to appeal from an adverse decision by the Zoning Officer on a challenge to the validity of this Chapter or Zoning Map pursuant to §916.2 of the Pennsylvania Municipalities Planning Code, shall preclude an appeal from a final approval, except in the case where the final submission substantially deviates from the approved tentative or preliminary approval.
- C. All appeals from determinations adverse to the landowner shall be filed by the landowner within 30 days after notice of the determination is issued, except appeals of the Zoning Officer's issuance of an enforcement notice, which shall be filed within 10 days after receipt of the enforcement notice.

9. **Stay of Proceedings.**

- A. Upon filing of any proceeding referred to in subsection (7) of this Section and during its pendency before the Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or 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 this case, the development or official action shall not be stayed otherwise than by a restraining order which may be granted by the Board or the court having jurisdiction of zoning appeals on petition after notice to the Zoning Officer or other appropriate agency or body.
- B. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the board by persons other than the applicant, the applicant may petition the Allegheny County Court of Common Pleas to order such persons to post a bond as a condition to continuing the proceedings before the board, pursuant to provisions of the Pennsylvania Municipalities Planning Code.

(Ord. 775, 6/15/1983, §140-805; as amended by Ord. 851, 7/12/1989, §2; and by Ord. 995, 12/10/2003)

§27-706. Jurisdiction of Borough Council.

The Borough Council shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

- A. Applications for conditional uses under the express provisions of Part 5 of this Chapter and §603(c)(2) of the Pennsylvania Municipalities Planning Code.
- B. Applications for curative amendments to this Chapter pursuant to §§609.1 and 916.1(a)(2) of the Pennsylvania Municipalities Planning Code.

(*Ord. 775, 6/15/1983, §140-806; as amended by Ord. 806, 6/11/1986; and by Ord. 851, 7/12/1989, §2*)

§27-707. Amendments to the Zoning Ordinance or Map.

Amendments of this Chapter may be initiated by Borough Council, by the Planning Commission, or by a petition of a landowner within the Borough in accordance with the following provisions:

- A. Petitions for amendment by landowners, other than curative amendments under §27-708 of this Chapter, shall be filed in writing with the Zoning Officer, and the petitioner, upon such filing, shall pay a filing fee and/or review deposit in accordance with the schedule fixed by resolution of Borough Council.
- B. Any proposed amendment other than one proposed by the Planning Commission shall be referred to the Planning Commission for review. The Planning Commission shall review the proposed amendment and report its findings and recommendations, in writing, to the Borough Council and to the petitioner.
- C. In the event the Planning Commission recommends approval of the proposed amendment, in whole or in part, or if a public hearing is requested by at least one member of the Borough Council, a public hearing will be scheduled on the proposed amendment and a copy of the same submitted to the Allegheny County Planning Agency at least 30 days prior to the public hearing in accordance with the requirement of the Municipalities Planning Code.
- D. If the proposed amendment involves a zoning map change, notice of the public hearing shall be conspicuously posted by the Borough at points deemed sufficient by it along the tract to notify potentially interested citizens. The affected tract shall be posted at least 1 week prior to the date of the hearing.
- E. Notice of any proposed zoning map change shall also be mailed by the Borough at least 30 days prior to the public hearing by first class mail to the addresses to which real estate tax bills are sent for all real property located within the area being rezoned, as evidenced by tax records within the possession of the Borough. A good faith effort and substantial compliance

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shall satisfy the requirements of this subsection. This subsection shall not apply to a comprehensive rezoning.

- F. If, after any public hearing held upon an amendment, the proposed amendment is substantially revised or further revised to include land previously not affected by it, then the Borough Council shall hold another public hearing pursuant to public notice before proceeding to vote on the amendment.
- G. The Borough Council shall act on a proposed amendment to this Chapter within 90 days of the date of the meeting at which the public hearing on the amendment is closed. If the Borough Council fails to so act within the said 90-day period, then the proposed amendment shall be deemed denied.
- H. Within 30 days after enactment, a certified copy of the amendment to this Chapter shall be forwarded to the Allegheny County planning agency.
- I. The proposed amendment shall also be published, advertised and made available to the public in accordance with the requirements of the Municipalities Planning Code.

(*Ord. 775*, 6/15/1983, §140-807; as amended by *Ord. 806*, 6/11/1986; by *Ord. 851*, 7/12/1989, §2; and by *Ord. 995*, 12/10/2003)

§27-708. Landowner Curative Amendments.

Any landowner who wishes to challenge, on substantive grounds, the validity of this Chapter or the Zoning Map or any provision thereof which prohibits or restricts the use or development of land in which he/she has an interest may prepare and submit a curative amendment to the Borough Council, in the form he/she proposes it be adopted, together with a written request that his/her challenge and proposed amendment be heard and decided in accordance with the requirements of the MPC. The Borough Council shall hold a public hearing, pursuant to public notice, on the matter within 60 days of receiving an administratively complete curative amendment request. Public notice of the public hearing shall be given by the Borough in accordance with the requirements of the MPC. Public hearings shall be conducted and held in accordance with the applicable provisions of the MPC. The Borough Council shall comply with all applicable requirements of the MPC regarding the conduct of hearings and decisions related thereto.

- A. **Referral to Planning Commission.** The curative amendment and challenge shall be referred to the Planning Commission and the Allegheny County planning agency or its designee at least 30 days prior to the public hearing for review and comment.
- B. **Declaration of Invalidity by the Court.** If the Borough does not accept a landowner's curative amendment brought in accordance with this Section and a court subsequently rules that the challenge has merit, the court's

decision shall not result in a declaration of invalidity for this entire Chapter but only for those provisions which specifically relate to the landowner's curative amendment and challenge.

C. **Evaluation of Merits of Curative Amendment.** If the Borough Council determines that a validity challenge has merit, then the Borough Council may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment which will cure the challenged defects. The Borough Council shall consider the curative amendments, plans and explanatory material submitted by the landowner and shall also consider:

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

(*Ord. 775, 6/15/1983, §140-808; as amended by Ord. 851, 7/12/1989, §2; and by Ord. 995, 12/10/2003*)

§27-709. Municipal Curative Amendments.

If the Borough Council determines that this Chapter or a portion thereof is substantially invalid, it may implement the procedure for municipal curative amendments provided for in §609.2 of the Municipalities Planning Code.

(*Ord. 775, 6/15/1983; as added by Ord. 995, 12/10/2003*)

§27-710. Enforcement Remedies.

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1. **Civil Enforcement Proceedings.**

- A. Except where a different penalty is provided, any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Chapter shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than \$500, plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor appeals the judgment in a timely manner, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation unless the district justice, determining that there has been a violation, further determines that there was a good faith basis for the person, partnership or corporation violating this Chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice, and thereafter, each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Chapter shall be paid over to the Borough.
- B. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgement.
- C. **Enforcement Notice.** The requisite enforcement notice, initiating a civil enforcement proceeding, shall contain the following information, in addition to any other information required by the MPC:
- (1) The name of the owner of record and any other person against whom the Borough intends to take action.
 - (2) The location of the property in violation.
 - (3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Chapter.
 - (4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
 - (5) That the recipient of the notice has a right to appeal to the Zoning Hearing Board within 10 days of receipt of the enforcement notice pursuant to the procedures set forth in this Chapter.
 - (6) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes

a violation with possible sanctions clearly described.

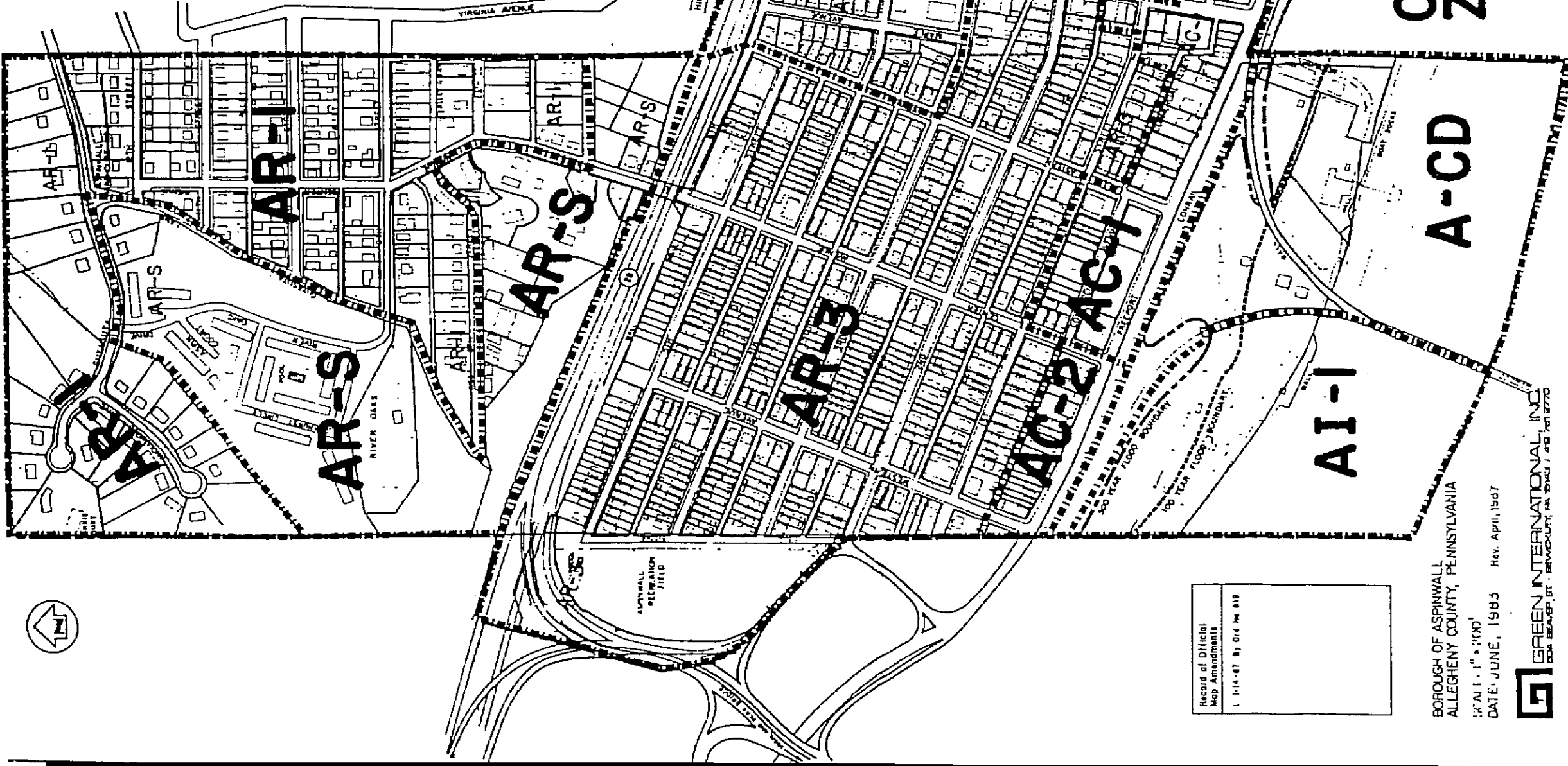
2. **Equitable Enforcement Proceedings.** In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Chapter, the Zoning Officer and/or the Borough Solicitor, with the approval of the Borough Council, may institute in the name of the Borough any appropriate equitable action or proceeding to prevent, restrain, correct or abate such buildings, structure or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. These remedies shall be in addition to any other remedies provided by law.
3. Nothing contained in this Section shall be construed or interpreted to grant to any person or entity other than the Borough the right to commence any action for enforcement pursuant to this Section.

(Ord. 775, 6/15/1983, §140-809; as amended by Ord. 806, 6/11/1986; by Ord. 851, 7/12/1989, §2; and by Ord. 995, 12/10/2003)

PART 8

ZONING MAP AMENDMENTS

Ordinance	Date	Description
819	31790	Reclassifying certain property located between Freeport Road and Allegheny River from AI-1 Limited Industrial District to A-CD Conservation District.



**ASPINWALL BOROUGH
ZONING DISTRICTS:**

- AR-1 RESIDENTIAL
- AR-2 RESIDENTIAL
- AR-3 RESIDENTIAL
- AR-4 MULTI-FAMILY RESIDENTIAL
- AR-S SPECIAL RESIDENTIAL
- AC-1 COMMUNITY BUSINESS DISTRICT
- AC-2 GENERAL COMMERCIAL
- AI-1 LIMITED INDUSTRIAL
- A-CD CONSERVATION

- 100 - YEAR FLOOD BOUNDARY
- 500 - YEAR FLOOD BOUNDARY

FLOOD INSURANCE RATING ZONES

AREA	ZONE
Within 100-Year Flood Boundary	A1B
Between 100 & 500-Year Flood Boundaries	B
Remainder of Borough	C

This map is hereby made part of Ordinance No. 178, the official zoning ordinance of Aspinwall Borough, adopted on June 15, 1983.

John J. ...
Mayor, Aspinwall Borough

Record of Official
Map Amendments
1-14-87 By Ord No 819

BOROUGH OF ASPINWALL,
ALLEGHENY COUNTY, PENNSYLVANIA
DATE: JUNE, 1985 Rev. April, 1987

GREEN INTERNATIONAL, INC.
2001 BEAVER ST. - BEAVER, PA. 15004-1401
TEL: 724-761-8770

**OFFICIAL
ZONING MAP**