

CHAPTER 152: LAND USE CODE

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GENERAL PROVISIONS

§ 152.01 TITLE AND PURPOSE.

(A) *Enacting clause.* It is hereby ordained and enacted by the Council of the borough that from and after the passage and approval of this chapter, the classes of districts specified herein shall be established and the following regulations shall be in full force and effect.

(B) *Short title.* This chapter shall be known as the “Land Use Ordinance”, and the map referred to herein and made a part of this chapter shall be known as the land use map.

(C) *Conflict with other ordinances or regulations.* Where a provision of this chapter is found to be in conflict with a provision of any other lawfully adopted rules, regulations or ordinances existing on the effective date of this chapter, the provision which is most restrictive or which establishes the higher standard for the protection of health, safety and welfare shall prevail.

(D) *Purposes of the chapter.* This chapter is adopted for the following purposes:

- (1) To protect and promote health, safety and welfare of the residents of New Alexandria and of the public generally;
- (2) To encourage the orderly growth and development of the Borough, in accordance with the recommendations of the borough’s Comprehensive Plan;
- (3) To protect and maintain the character, stability and value of residential, business and institutional areas within the borough;
- (4) To provide adequate light, air and privacy and to prevent the overcrowding of people and structures upon the land;
- (5) To provide protection against fire, explosion, noxious fumes and other hazards in the Interest of the public health, safety, comfort and general welfare;

(6) To encourage the most appropriate use of land and structures throughout the borough through the establishment of land use districts and the regulation of land and structures and the construction and alteration of buildings and other structures in each district;

(7) To provide for the gradual elimination of those uses of land, buildings and structures which do not conform to the use requirements of the districts in which they are located and which adversely affect the development of other property in each district; and

(8) To implement the Comprehensive Plan of the borough.
(Ord. 145, passed 12-14-2005)

§ 152.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The word "used" or the word "occupied" as applied to any land or building shall be interpreted to include the words "intended, arranged, maintained, or designed to be used or occupied," and shall also include the word "erected." The word "building" includes the word "structure" and the word "structure" includes the word "building." The word "person" also refers to a firm, association, organization, trust, partnership, company, corporation or any other entity, as well as an individual, where applicable. Any other word not specifically defined herein shall be given its common and ordinary meaning, unless the use and context clearly indicate otherwise, or unless the word has a differing legal interpretation or meaning in accordance with statutory and common law of the commonwealth.

ACCESSORY BUILDING, STRUCTURE OR USE. A building, structure or use which is subordinate to the main building on the lot and is used for purposes customarily incidental to the use of the main building or lot.

ALLEY. A minor public way, approved by the Borough Council, having a right-of-way width between property lines of 20 feet or less for vehicular service access to the back or sides of properties otherwise abutting on a street.

ALTERATIONS, STRUCTURAL. Any change which would prolong the life of the supporting members of a building such as bearing walls, columns, beams or girders.

AREA, BUILDING. The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps.

AREA, LOT OR PARCEL. The total area within the property lines, excluding all external street rights-of-way.

AREA, NET FLOOR. The area of any nonresidential or commercial structure, used or intended to be used for the delivery of services to the public, such as customers, patrons or clients, including areas used for the display or sale of merchandise. Floor areas may be excluded which are used exclusively for storage, housing of mechanical equipment integral to the building, for maintenance facilities, or for those areas used for a private residence that exclude customers, patients, clients, salespersons and from which the general public is denied access.

AUTOMOBILE AND REPAIR ESTABLISHMENT. The use of any building, land area or other premises for the display and sale of new or used automobiles, trucks or vans, trailers or recreational vehicles, and including any warranty repair work and other repair service conducted as a primary or accessory use.

BASIC GRADE. In the case of a structure abutting a front yard, the average elevation of the proposed grade line of the ground at the front of the structure as shown on the construction plans. In the case of a structure abutting the front property line, the elevation of the curb in front of the center of the structure, or if there is no curb, the elevation of the proposed grade at the center of the front line. In case no grade line is established, the actual existing grade of the traveled roadway shall apply.

BED AND BREAKFAST ESTABLISHMENT. A building in which not more than two rooms are used to provide overnight accommodations and breakfast for transient guests for compensation. The applicant for a **BED AND BREAKFAST ESTABLISHMENT** permit must principally reside in the structure in which the **BED AND BREAKFAST ESTABLISHMENT** is licensed. This definition shall also include **TOURIST HOMES** and similar establishments.

BILLBOARD. A structure that is constructed for, arranged, intended, designed or used as an advertisement, announcement or direction medium, either as a freestanding unit or connected to a structure or any surface for such purpose.

BUILDING or STRUCTURE. Anything constructed or erected upon or within a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, **BUILDINGS** or **STRUCTURES** include anything constructed, erected or maintained, but not limited to, mobile homes, walls, fences, billboards and carports.

BUILDING, HEIGHT OF. The total number of stories in a building, and the vertical distance measured from the mean level of the adjacent ground to the highest point of the roof adjacent to the street wall for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridges for gable, gambrel and hip roofs, and to the highest point of any other type of roof.

BUILDING, PRINCIPAL. A building in which is conducted the main or principal use of the lot on which said building is situated.

BUILDING SETBACK LINE. An imaginary line located a fixed distance from the front line of any lot of ground and interpreted as being the nearest point that a building or structure may be constructed to the front lot line. The building line shall limit the location of porches, patios and similar structures, steps or walkways excluded, to the face of this line.

CLEAR SIGHT TRIANGLE FOR INTERSECTIONS. On a corner lot or any point of entry on a public road, nothing shall be erected, placed, planted or allowed to grow in such a manner which obscures vision between the height of one and one-half feet and ten feet above ground level as measured from the centerline grades of the intersecting streets and within the area bounded by the street lines of such corner lots and a line joining points on these street lines of such corner lots 40 feet from their intersection along the lot lines.

CODE ENFORCEMENT OFFICER. The Land Use Administrator, who shall be appointed by Borough Council and who is herein charged with the administration and enforcement of this chapter. Any reference in this chapter to the Land Use Administrator or Zoning Officer shall be regarded as referring to the **CODE ENFORCEMENT OFFICER**.

CONVERSION APARTMENT. The remodeling of a single family dwelling unit into two or more separate living units, each having a minimum of 500 square feet of habitable area, at least one bathroom and two or more habitable rooms. Each conversion/adaptation shall have separate, private sanitary, cooking and dining facilities from any other apartment dwelling units. **CONVERSION APARTMENTS** shall assume the status of a multi-family dwelling for purposes of this chapter.

COUNCIL. The elected legislative body of the Borough of New Alexandria.

COVERAGE. The percentage of the parcel or lot area covered by the building area.

DWELLING. A house, apartment building or other structure used primarily for human habitation. The word **DWELLING** shall not include hotels, motels or other structures used for transient residence.

DWELLING, MULTI-FAMILY RESIDENTIAL. A dwelling unit or units which is not designed for or used as a single-family residential dwelling, which includes, among other uses, duplexes, townhouses, condominiums, apartments, apartment complexes and group homes.

DWELLING, SINGLE-FAMILY RESIDENTIAL. A building designed for or occupied exclusively as a residence for one-family, unconnected to any other dwelling unit(s).

DWELLING UNIT. One or more living or sleeping rooms with cooking and sanitary facilities for one person or one family.

EASEMENT. A grant by a property owner of the use, for a specific purpose or purposes, of a strip, section or area of land for the benefit or use of another.

ESSENTIAL SERVICE. The erection, construction, alteration or maintenance by public utilities, municipal departments or authorities, of facilities, including buildings necessary for the furnishing of adequate services for the public health, safety or general welfare of borough residents.

FAMILY. Any one or more of the following: a single individual occupying a dwelling unit; two or more persons related by blood, marriage or adoption occupying a dwelling unit; not more than five unrelated persons occupying a dwelling unit; not more than eight related or unrelated persons who are the functional equivalent of a family, in that they live together, participate in such activities as meal planning, shopping, meal preparation and the cleaning of their dwelling unit together, and who are part of a community based residential home, which qualifies as a community living arrangement licensed by the State Department of Welfare, or other appropriate federal or state agency having jurisdiction, where the persons occupying the home are incapacitated persons under the terms of the Fair Housing Act of 1988, and where the operator of the home provides room and board, personal care, rehabilitative services and supervision in a family environment. The presence of staff persons in a home meeting this definition shall not disqualify the group of persons occupying the dwelling unit as a **FAMILY**.

GARAGE. An accessory building for the storage of one or more automobiles and/or other vehicle accessories and incidental to the primary use of the premises.

GROUP HOMES. Homes operated for persons who are unrelated and who require monitoring and/or supervision, and/or where persons are obligated to reside at the premises by way of an order of court or an administrative law judge, and which meets the definition of "family" set forth herein, includes nursing, convalescent and personal care homes.

HEIGHT. The height of a building shall be measured from the mean level of the ground at the front of the building to the highest point on the roof. Chimneys, spires, towers, tanks, solar panels, television and communication antennae and similar projections shall not be included in calculating the height.

HOME OCCUPATION. An occupation carried on in a dwelling unit or accessory building by the resident thereof as a customary and accessory use in connection therewith there shall be no display of any kind except one identification sign as defined in § 152.40(G). The use shall not require internal or external alterations or construction features not customary in dwellings and shall be clearly incidental to the primary use of the premises for residential purposes. Permitted **HOME OCCUPATIONS** subject to the regulations listed above, shall include the professions of architect, artist, clergyman, dentist, engineer, lawyer, musician, physician, surgeon, writer and teachers giving instruction to not more than two pupils at any one time; customary domestic occupations including dressmaker, seamstress, milliner and hairdresser; and small repair work or craftsmen including furniture repairing, carpentry work or small appliance repairs. The conduct of a clinic, group home, hospital or similar use shall not qualify as a **HOME OCCUPATION**. The use of a portion of a dwelling for a home office which is not used for customer or client visits, or for babysitting or child care services not requiring state licensure shall not constitute a home occupation. A permitted **HOME OCCUPATION** shall be personal to the owner(s) of the premises and cannot be utilized or transferred to any other person or entity without approval by the Zoning Hearing Board.

HOTEL/MOTEL. A building or portion thereof, made up of two or more living or sleeping quarters used independently of each other, for temporary occupancy of individuals who are lodged with or without meals and for which there are no provisions for integral cooking in the individual rooms or suites.

INTEGRATED BUSINESS CENTER. A combination of two or more units for commercial uses designed, structured and located so as to result in a shopping plaza, mall or other acceptable structural configuration, or architectural modification thereof.

JUNK. Any worn, cast-off or discarded article or material which is ready for destruction or which has been collected or stored for sale, resale, salvage or conversion to some other use. Any such article or material stored on a farm for the exclusive use of the owner or occupant of the farm, or any article or material which, unaltered, does not need to be disassembled or unfastened from, or unchanged and without further reconditioning, can be used for its original purpose as readily as when new, shall not be considered **JUNK**. **JUNK** also includes any unlicensed, unregistered or uninspected vehicles as required to be registered with the Pennsylvania Department of Transportation.

JUNKYARD. The use of more than 200 square feet of the area of any lot, whether inside or outside of a building, or the use of any portion of that one-half of any lot that joins the street for storage, keeping or abandonment of junk, including scrap metals, or for the dismantling, demolition or abandonment of automobiles or other vehicles, machinery or parts thereof.

LOT. A parcel of land upon which a primary building or any accessory building are, or can be placed, together with the required open spaces.

LOT AREA. The horizontal surface area within the boundary lines of a lot.

LOT, BUILDABLE AREA OF. The portion of a conforming lot or a nonconforming lot bounded by the required yards. When a yard is not required, the boundary is the lot line.

LOT, BUILDING LINES OF. The lines that bound the buildable area of the lot, including front, rear and side building lines.

LOT, CORNER. A lot abutting two or more streets at their intersection and on which the required minimum front yard and side yard must be provided and maintained for the dwelling.

LOT, CONFORMING. A lot, occupied or unoccupied by buildings or structures, fronting on a public street or a street in a plan of land subdivision, and having such area and open spaces thereon as are required by this chapter for one of the uses permitted in the district in which it is located.

LOT, DEPTH. The mean horizontal distance between the front and rear lot lines.

LOT, INTERIOR. A lot other than a corner lot.

LOT, NONCONFORMING. A lot, occupied or unoccupied by buildings or structures which is of insufficient size or dimensions to meet the requirements for one of the uses permitted in the district in which it is located. A **NONCONFORMING LOT** shall be one which by documentary evidence acceptable to the Administrator, is shown to be, prior to and continuously since the effective date of this chapter, in separate and distinct ownership from all abutting land.

LOT, RECORDED. A lot designated on a plot or subdivision duly recorded pursuant to statute with the Recorder of Deeds of the county. A **RECORDED LOT** may be a conforming lot or nonconforming lot.

LOT, THROUGH. An interior lot, the front and rear lines of which abut streets.

LOT, WIDTH. The mean horizontal distance across the lot between the side lot lines measured at right angles to the depth.

MOBILE HOME. A single-family dwelling designed for transportation after fabrication on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling, complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connection to utilities and the like.

MINI-STORAGE WAREHOUSES. A facility providing for the enclosed storage of household items or recreation equipment where said items are retained for direct use by their owner, who shall have direct access thereto without intermediate handling by the proprietor of the facility.

NONCONFORMING STRUCTURE. Any structure, lawfully existing on the effective date of this chapter, which is presently used for a purpose permitted in the district in which it is located, but which could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot.

NONCONFORMING USE. A building, structure or premises lawfully occupied at the time of the enactment of New Alexandria Borough Ordinance No. 84, and which is used for a purpose that does not conform with the provisions of said or this chapter for the district in which it is located. **NONCONFORMING USE** also includes uses resulting from changes in zoning districts or changes or amendments to this chapter, hereinafter enacted.

NOTICE/PUBLIC NOTICES. Any public hearings and other public notices required under this chapter shall be provided by publishing same in a newspaper of general circulation in the borough:

- (1) At least twice, on two successive weeks, not less than seven and not more than 30 days prior to the hearing;
- (2) Publications of proposed amendments to the provisions of this chapter shall be made not less than ten and not more than 30 days by publication in newspaper of general circulation in the borough; and

(3) All proposed map amendments must be posted on the perimeter of the affected property, in a manner sufficient to give notice to the public and passers-by, at least one week before a public hearing.

OCCUPANCY PERMIT. A written statement signed by the Code Enforcement Officer setting forth either that a building or structure complies with this chapter and/or that a building, structure or parcel of land may be lawfully used for specific uses, or both.

PARKING SPACE. An off-street space having an area of not less than 162 square feet and being typically nine feet wide and 18 feet long, used exclusively for a parking, turning and access stall for one automobile.

PERSON. Any individual, group of individuals or entity including, but not limited to, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

PRINCIPAL USE. The major or dominant use of the lot on which a dwelling or use occurs.

PROFESSIONAL OFFICE. Any office or business conducted by an individual, entity or association that must be licensed under the laws of the commonwealth.

ROOMING HOUSE. A building or portion thereof, other than a hotel or motel, containing not more than one dwelling unit, where lodging is provided without meals for not more than three persons in addition to the family unit.

SERVICE STATIONS. Includes commercial garages, new and used automobile dealerships, gasoline filling stations. An area of land, including the structures erected thereon, used in any manner for the repair, maintenance, storage or sale of motor vehicle services, parts, accessories, fuel and other related uses.

SIGN. Any surface, fabric or device bearing lettered, pictorial or sculptured matter designed to convey information visually or exposed to public view; or any structure designed to carry the above visual information.

SIGN, BUSINESS. A sign which directs attention to a business, profession or industry upon the premises where the sign is displayed, to type of products sold, manufactured or assembled, and/or to service or entertainment offered on said premises.

SIGN, IDENTIFICATION. A sign used to identify only the name of the individual or organization occupying the premises; the profession of the occupant; the name of the building on which the sign is displayed.

SIGN, PERMANENT. A sign set on its own structure, sunk into the ground or permanently painted on or fastened to a permanent structure.

SIGN, TEMPORARY. A sign that is not a permanent sign.

SPECIAL EXCEPTION. A modification of the regulations of the ordinance which Zoning Hearing Board is permitted to authorize in specific instances, under procedures and conditions prescribed herein.

STREET. A public way, approved or accepted by the Borough Council, having a right of way of more than 20 feet between property lines, for vehicular and pedestrian traffic whether designated as a street, highway, avenue or way, but not including an alley.

STRUCTURE. Anything constructed or erected, the use of which requires directly or indirectly, a fixed location on the land.

STRUCTURE, HEIGHT OF (OTHER THAN A BUILDING). The vertical distance measured from the adjacent finished grade level to the highest point of the structure.

TRAILER. Any licensed or unlicensed unit, not fitting the definition of a mobile home, which is designed or used for temporary living or sleeping purposes, and not as a year-round residence, regardless of whether the wheels are attached or unattached and regardless of whether utilities are attached or unattached thereto. The definition of **TRAILER** shall include camping and recreational equipment, pick-up coaches, motorized homes, boats and boat trailers.

USE, PRINCIPAL. The main purpose or activity for which the land, or building or structure thereon is designed, arranged or intended, or for which it is occupied or maintained.

VARIANCE. A modification of the regulations of this chapter by the Zoning Hearing Board upon application by an owner as to the use of the land or a structure erected thereon, when a literal enforcement of this chapter would result in a hardship, as defined by law, and where said modifications would not violate any comprehensive or long-range community plan.

WHOLESALE STORAGE AND WAREHOUSING. A building or group of buildings primarily used for the storage, transfer and distribution of products and materials.

YARD. An open space on a lot, other than a court, unoccupied and unobstructed from the ground to the sky.

YARD, FRONT. A yard extending across the full width of the lot and abutting the front lot line, the required depth of which yard is a prescribed minimum distance between the front lot line and the front building line.

YARD, REAR. A yard extending the full width of the lot and abutting the rear lot line, the required depth of which yard is a prescribed minimum distance between the rear lot line and the rear building line.

YARD, SIDE. A yard extending from the front to the rear yard or rear lot line where no rear yard is required, and abutting a side lot line; the required width of which yard is a prescribed minimum distance between the side lot line and the side building line.

ZONING. A legal, administrative process whereby the borough divides its territory into districts and applies regulations to each district to legally control the use of land and buildings.

ZONING HEARING BOARD. A board of individuals, no less than three in number, appointed by Council and assigned the duty of hearing appeals of persons aggrieved by the interpretation of the terms of this chapter, as more fully set forth herein.

ZONING OFFICER. An individual appointed by Borough Council to be administrator of the day-to-day application of the provisions contained in this chapter.

ZONING PERMIT. A statement signed by the Zoning Officer indicating that the application for permission to construct, alter, modify or add is approved and in accordance with the requirements of the terms of this chapter.
(Ord. 145, passed 12-14-2005)

§ 152.03 LAND USE DISTRICTS.

(A) *Land use districts.* To carry out the purposes and provisions of this chapter, the borough is hereby divided into four land use districts. These districts shall be known as:

<i>Full Name</i>	<i>Short Name</i>
Highway Commercial	HC
Industrial	I
Neighborhood Commercial	NC
Residential	R

(B) *Land use map.* The locations and boundaries of the districts enumerated in division (A) above are hereby established as shown upon the map attached to this chapter, being designated as the "land use map". The land use map and all information shown thereon are hereby made a part of this chapter.

(C) *Interpretation of district boundaries.* Where uncertainty exists with respect to the boundaries of any of the districts shown on the land use map, the following interpretations shall apply.

(1) The boundaries between districts shall generally be considered to be the center line of streets or alleys, or such lines extended, or parallel lines thereto, or other physical boundaries and delineation, including property lines where appropriate. Where streets, property lines or other physical delineations are not applicable, boundaries shall be determined by the scale shown on the official land use map.

(2) Boundaries indicated as approximately following the boundary line of a recorded lot or separate parcel of land shall be construed as following said line of recorded lot or parcel of land.

(3) Boundaries indicated as approximately following borough boundaries shall be construed as following said borough boundaries.

(4) Boundaries indicated by measured distances on the land use map shall be determined by such dimensions. Distances not specifically indicated on the land use map shall be determined by the scale of the map.

(Ord. 145, passed 12-14-2005)

§ 152.04 ZONING HEARING BOARD.

(A) The Borough Council shall appoint a Zoning Hearing Board in accordance with the provisions of 53 P.S. §§ 10901 et seq.

(B) The Zoning Hearing Board shall have the following powers:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the Code Enforcement Officer in the enforcement of this chapter or any amendments thereto;

(2) To hear and decide special exceptions to the terms of this chapter upon which it is required or has the authority to act under the terms of this chapter or by the laws of the commonwealth;

(3) To authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship; and

(4) In exercising the above powers, the Zoning Hearing Board may, in conformity with this chapter and the applicable laws of the commonwealth, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order,

requirements, decisions or determinations it deems appropriate. Notice of such decision shall be given to all parties in interest, including the Code Enforcement Officer and the Borough Council.
(Ord. 145, passed 12-14-2005)

§ 152.05 SPECIAL EXCEPTIONS.

(A) The Zoning Hearing Board shall hear and decide upon special exceptions in accordance with the provisions of this chapter. It shall not approve any special exception, however, unless and until:

(1) A written application for a special exception is submitted to the Code Enforcement Officer indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested;

(2) The required fees are paid, either per the terms of this chapter or any fee schedule adopted by Borough Council;

(3) A public hearing shall be held. Any party may appear in person or by attorney; and

(4) Notice shall be given at least 15 days in advance of public hearing. The owner of the property for which the special exception is sought or his or her agent shall be notified by first class U.S. mail, postage pre-paid. Notice of such hearing shall also be posted on the property for which the special exception is requested, at the borough offices and on any public bulletin board established by Borough Council for such purposes.

(B) In considering any special exception, the Zoning Hearing Board may prescribe appropriate conditions in conformity with this chapter. Violations of any such conditions, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this chapter and punishable in accordance herewith.

(C) If the Zoning Hearing Board determines that the application for special exception meets all requirements of this chapter, it shall direct the Code Enforcement Officer to issue an occupancy permit for such special exception.

(Ord. 145, passed 12-14-2005)

§ 152.06 CONDITIONAL USES.

(A) The Borough Council shall hear and decide upon conditional uses in accordance with the provisions of this chapter, provided that:

(1) A written application for a conditional use is submitted to Council or to the Code Enforcement Officer, indicating the section of this chapter under which the conditional use is being sought and the grounds on which it is requested. Where applicable, a site development plan shall be provided by the applicant;

(2) The required fees are paid either per the terms of this chapter or any fee schedule adopted by Borough Council;

(3) A public hearing shall be held. Any party may appear in person or by attorney; and

(4) Notice shall be given at least 15 days in advance of the public hearing before Council. The owner of the property for which a conditional use is sought, or his or her or their attorney, as well as property owners within 100 feet of the proposed conditional use shall be notified by first class U.S. mail, postage pre-paid. Notice of such hearing shall also be advertised once a week for two consecutive weeks in a local newspaper of general circulation in the borough, with the first advertisement appearing not less than 15 days before the hearing. Notice of such hearing shall also be posted on the property for which the conditional use is sought, at the borough offices and on any public bulletin board established by Council for that purpose.

(B) In considering any conditional use, the Borough Council may prescribe appropriate conditions and safeguards in conformity with this chapter.

(C) If the Borough Council determines that the application for conditional use meets all requirements of this chapter and any additional conditions imposed, it shall direct the Code Enforcement Officer to issue an occupancy permit for such conditional use.

(Ord. 145, passed 12-14-2005)

§ 152.07 VARIANCES.

(A) The Zoning Hearing Board shall authorize, upon appeal in specific cases, such variances from the provisions of this chapter as will not be contrary to the terms thereof, or to public interest or welfare, where, due to special conditions, a literal enforcement would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board unless and until:

(1) A written application for a variance is submitted, demonstrating that special conditions and circumstances exist which are unique to the land, structure or building which are not applicable to other lands, structures or buildings in the same district; that literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district

under the terms of this chapter; that the special conditions and circumstances do not result from actions of the applicant; and that granting any variance requested will not have a detrimental effect upon other lands, structures or buildings in the same district. No nonconforming or permitted use of lands, structures or buildings in the same district, or other districts, shall be considered grounds for the issuance of a variance;

(2) The required fees set forth in this chapter or as established by Council are paid;

(3) Notice shall be given at least 15 days in advance of the public hearing. The owner of the property for which a variance is being requested, or his or her or their attorney, shall be notified by first class U.S. mail, postage pre-paid. Notice of such hearing shall also be posted at the property for which the variance is being sought, at the borough offices and on any bulletin board established by Council for that purpose;

(4) A public hearing shall be held, pursuant to said notice. Any party may appear in person or through counsel;

(5) The Zoning Hearing Board shall make findings that the requirements of this chapter and any other applicable laws or regulations have been met by the applicant;

(6) The Zoning Hearing Board shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure; and

(7) The Zoning Hearing Board shall further make a finding that the granting of the variance will be consistent with the general purpose of this and other ordinances, laws and regulations regulating the use of land in the borough.

(B) The Zoning Hearing Board may prescribe such conditions as it deems necessary or appropriate in granting variances.

(C) Under no circumstances shall the Zoning Hearing Board grant a variance which would permit a use which is not permissible under the terms of this chapter in the district involved.

(Ord. 145, passed 12-14-2005)

§ 152.08 APPEALS.

(A) Appeals may be taken to the Zoning Hearing Board by any person, organization or entity aggrieved by the determination of Code Enforcement Officer or the Borough Council, where applicable, relative to the interpretation of this chapter.

(1) Such appeal shall be taken within 30 days from the date of such decision by filing with the Code Enforcement Officer and with the Zoning Hearing Board a notice of appeal, on forms provided, specifying the grounds thereof.

(2) Following notice of such appeal, the Code Enforcement officer will transfer to the Zoning Hearing Board all records relating to the matter appealed.

(B) The Zoning Board shall set a reasonable time for the hearing on the appeal, give public notice thereof as well as appropriate notice to the parties in interest.

(1) Following the hearing, the Board shall render a decision on the issue within 45 days, or, if the hearing is continued for cause, within 45 days such continued hearing.

(2) If the Zoning Hearing Board does not make a decision during such time, it shall be deemed that the Board made a decision in favor of the person, organization or entity that filed the appeal. (Ord. 145, passed 12-14-2005)

§ 152.09 VIOLATIONS; COMPLAINT.

(A) Any person or party who maintains that a violation of this chapter, or any provision thereof, has occurred, must file a written complaint with the Code Enforcement Officer before any action will be taken. Such complaint must set forth the alleged violation and the alleged violating party in sufficient detail for the Code Enforcement Officer to properly investigate the matter. Upon receipt of served written complaint, the Code Enforcement Officer will, within a reasonable period of time based upon the circumstance of each case, investigate all allegations, take appropriate action as set forth in this chapter, and make a report to Council.

(B) Nothing set forth in division (A) above shall be interpreted as precluding the Code Enforcement Officer, or as precluding Council from directing the Code Enforcement Officer, from investigating any violation, or alleged violation, or taking any action authorized or mandated herein, without a written complaint.

(Ord. 145, passed 12-14-2005)

§ 152.10 POWERS AND DUTIES RESERVED TO COUNCIL.

(A) Planning Committee.

(1) The Planning Committee of the Borough Council shall receive from the Code Enforcement Officer copies of all applications for amendments to this chapter and shall make findings and recommendations thereon, after which the Committee shall forward such findings and recommendations to the Borough Council.

(2) The Planning Committee shall, furthermore, initiate, direct and review, from time to time, a study of the provisions of this chapter, and make reports of its findings and recommendations to the Borough Council.

(B) Borough Council.

(1) The Borough Council shall hear the following zoning and land development issues:

(a) All applications for final approval of subdivision and land developments.

(b) Applications for conditional use where said application is reviewed in accordance with the provisions hereof. In its consideration of a conditional use, the governing body 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 or other land development ordinances.

(c) Applications for a curative amendment to this chapter.

(d) All petitions for amendments to the land use ordinances as is provided in said ordinances. Any action on such petition shall be deemed legislative acts.

(e) Appeals from the determination of the Code Enforcement Officer which are not exclusively delegated to the Zoning Hearing Board by law or this chapter.

(2) Council shall by resolution establish a schedule of fees, charges and expenses for all applications, permits, appeals and other matters, set forth in this chapter, from time to time.

(3) Council may upon petition, upon recommendation by the Planning Committee or on its own motion, amend, supplement or replace all or any portion of this chapter, from time to time. The procedure for reviewing, enacting and adopting such changes shall be in accordance with the Pennsylvania Municipalities Planning Code, being 53 P.S. §§ 10901 et seq., as reenacted and amended from time to time, or in accordance with other applicable laws and regulations.

(4) No amendment to this chapter shall apply to or affect any legal, valid, existing, registered nonconforming use or occupancy permit for any structures or use previously approved, unless said use expired in accordance with the provision of this chapter.

(Ord. 145, passed 12-14-2005)

§ 152.11 LAND USE MAP.

(A) The borough is divided into zoning and land use districts as set forth on the official land use map which shall be adopted and so designated by Council from time to time. The land use map is incorporated into and made a part of this chapter.

(B) The official land use map may be amended or repealed by Council in accordance with the same procedures established herein, or by law, for amendments of land use or zoning ordinances.

(Ord. 145, passed 12-14-2005)

§ 152.12 VALIDITY, INTERPRETATION, PRIMACY OF OTHER LAWS AND REGULATIONS.

(A) *Validity.* Should any section or provision of this chapter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this chapter as a whole or any part thereof, and the parts of or sections remaining shall remain in effect as though the part or section declared unconstitutional had never been a part thereof.

(B) *Interpretation.* The interpretation and application of the provisions of this chapter shall be held to be the minimum requirements for the promotion of the health, safety and welfare of the borough.

(C) *Primacy of other laws or regulations.*

(1) Any provision of this chapter which is in conflict with the Pennsylvania Municipalities Planning Code, being 53. P.S. §§ 10901 et seq., the Pennsylvania Uniform Construction Code, 34 Pa. Code Chapters 401 to 405, or the regulations thereunder, or any other applicable law of the commonwealth, shall be deemed to be subordinate to said controlling legislation or regulation.

(2) Any provision of the ordinance which is not in conflict with any such legislation or regulation, including those that are permissibly more restrictive, shall be binding and effective.

(Ord. 145, passed 12-14-2005)

DISTRICT REGULATIONS

§ 152.25 PERMITTED USES.

In each district, land and structures shall be used, and structures shall be erected, altered or enlarged for the uses listed in this section and conforming to standards contained in other sections of this chapter.

(A) Residential:

- (1) One-family dwellings;
- (2) Two-family dwellings;
- (3) Private garages;
- (4) Private swimming pools;
- (5) Home occupations;
- (6) Greenhouses (as an accessory use);
- (7) Fences;
- (8) Signs;
- (9) One farm animal per each two acres of land (see § 152.40(J));
- (10) Home gardening (noncommercial, without sale of products); and

(11) Public and semi-public uses as special exceptions subject to the requirements set forth in § 152.40.

(B) Neighborhood Commercial:

- (1) All uses listed under Residential;
- (2) Multi-family, subject to § 152.27(B);
- (3) Bed and breakfast establishments;
- (4) Any retail, manufacturing or service business that does not exceed 3,000 square feet;

(5) Specifically excluded are establishments that sell alcohol for on premises consumption, introduce environmental hazards, including noise and light, or include pornographic content in their business; and

(6) Public and semi-public uses as special exceptions subject to the requirements set forth in § 152.40.

(C) Highway Commercial:

- (1) All uses permitted in Neighborhood Commercial;
- (2) Gasoline service stations;
- (3) Garages, repair;
- (4) Restaurants, lounges and bars;
- (5) Feed mills;
- (6) Boat building and service facilities;
- (7) Monument dealers;
- (8) Greenhouses;
- (9) Hotels and motels;
- (10) Retail and wholesale stores; and

(11) Public and semi-public uses as special exceptions subject to the requirements set forth in § 152.40.

(D) Industrial:

- (1) Includes all uses in Highway Commercial;
- (2) Cement plants;
- (3) Construction equipment sales and service;
- (4) Trucking terminal or garage;
- (5) Automobile agency;

- (6) Bowling alley;
- (7) Machinery sales, service and fabrication shops;
- (8) Fabrication and sales;
- (9) Lumber mill, storage and carpentry;
- (10) Plumbing, heating and electrical sales and service;
- (11) Warehouses;
- (12) Office buildings;
- (13) Printing shops;
- (14) Tire shops and recapping;
- (15) Public and semi-public uses as special exceptions subject to the requirements set forth in § 152.40; and
- (16) Adult oriented business.
(Ord. 145, passed 12-14-2005)

§ 152.26 HEIGHT STANDARDS.

For the uses listed in § 152.25, the height of structures hereafter erected or enlarged shall not exceed the height limitations prescribed in this section:

(A) Principal building: maximum of two and one-half stories and 35-foot maximum to top of highest point on structure; and

(B) Accessory building: one story maximum, 18 feet maximum height.
(Ord. 145, passed 12-14-2005)

§ 152.27 AREA STANDARDS.

For the uses listed in § 152.25, on each unimproved conforming lot and on each conforming lot upon which a structure is hereafter erected or enlarged, there shall be provided and maintained a lot area, yards and other open spaces not less than prescribed in this section.

(A) Residential:

(1) Minimum lot area per dwelling unit in:

	<i>Frontage</i>	<i>Area</i>
One-family dwelling (on site sewage)	100 feet	20,000 square feet
One-family dwelling (public sewage)	80 feet	9,600 square feet
Two-family dwelling (on site sewage)	150 feet	30,000 square feet
Two-family dwelling (public sewage)	100 feet	15,000 square feet

(2) Maximum building coverage: 30% of total lot area;

(3) Minimum lot width: 80 feet, new lots only;

(4) Minimum front yard depth: building line to be in accordance with the requirements of other ordinances establishing such lines, but not less than 35 feet from edge of the right-of-way line of the abutting street, or consistent with the setback of adjacent conforming structures;

(5) Minimum side yard width (two required):

(a) Not abutting a street: eight feet; and

(b) Abutting a street: ten feet from outside line of street right-of-way.

(6) Minimum yard depth: 30 feet;

(7) Exceptions and modifications to residential area standards: reduction of yards, accessory buildings, modification of area standards for planned developments:

(a) Reduction of front yard depth (§ 152.42(A));

(b) Reduction of side yard width (§ 152.42(B));

(c) Construction of accessory buildings in rear yard (§ 152.42(C));

- (d) Projection of building features into required yards (§ 152.42(D)); and
- (e) Modification of area standards for planned developments (§ 152.42(E)).

(B) Commercial:

	<i>HC</i>	<i>NC</i>
Maximum building coverage (percent of lot area)	80	40
Minimum front yard depth (minimum of 30 feet from street/highway right-of-way line or consistent with setback of adjacent conforming structures)	30	30
Minimum side yard width (each side-feet)	8	8
Minimum rear yard depth (feet)	15	15
Storage of materials or merchandise outside of buildings	Yes	No
All portions of a lot not used for buildings shall be attractively landscaped and maintained in good condition		
Off-street parking areas shall be provided in accordance with provisions of § 152.40(C).		

(C) Industrial:

Maximum building coverage	80% of total area
Minimum front yard depth	30 feet from the edge of street/highway right-of-way line consistent with line of adjacent conforming structures
Minimum side yard width	8 feet
Minimum rear yard depth	15 feet
All portions of a lot in this district not used for buildings shall be maintained in good condition	
A sufficient number of off-street parking spaces shall be provided to accommodate the average number of employees and customers using the premises at any one time	
Adequate off-street loading space shall be provided so that loading and unloading does not occur on a public right-of-way	

(Ord. 145, passed 12-14-2005)

SUPPLEMENTARY REQUIREMENTS**§ 152.40 SUPPLEMENTARY USE REQUIREMENTS.**

(A) *Public and semi-public uses in the R and NC Districts.* Public and semi-public uses shall be permitted in the Residential and Neighborhood Commercial Districts only as special exceptions. Upon application in accordance with the procedures outlined in § 152.05, the Zoning Hearing Board may permit a public or semi-public use in the R District if it shall find that the proposed use will not detract from the residential character of the District. In so determining, the Board may require wider or deeper yards, screening from abutting properties, provision of off-street parking, and may impose such restrictions on building, design, placement and methods and hours of operation as it deems necessary to protect nearby residential properties.

(B) *Highway commercial and industrial properties.* Highway commercial and industrial properties shall have a fence not less than five feet in height when abutting the R District and NC. Such fence shall be located in a required yard. All repair operations shall be carried on completely within a building, and there shall be no storage of dismantled equipment or vehicles or parts of automobiles outside of a building.

(C) *Neighborhood commercial businesses.* All neighborhood commercial businesses shall carry on their operations completely within a building, and there shall be no storage of dismantled components or inventory of materials outside of a building. (Daily display during business hours excluded.)

(D) *Off-street parking requirements.* All new construction or renovation that enlarges/changes basic use shall conform to these standards before approval of intended use shall be granted.

<i>Buildings</i>	<i>Number of Parking Spaces</i>
Business or professional offices	One space for every 250 square feet of floor area
Dwellings	Two spaces per dwelling unit
Establishments handling consumption of food on the premises	One space for every 50 square feet of floor area devoted to patron use
Home occupation	Minimum two spaces
Hotels, motels and tourist homes, including bed and breakfasts	One space per guest/sleeping room
Public and semi-public uses	An adequate number as determined by the Planning Committee
Retail stores	One space for every 200 square feet of floor area

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(E) *Private swimming pools.* Private swimming pools shall be permitted as dwellings in the R and NC Districts and as an accessory use to hotels, motels, tourist breakfasts, in the applicable permitted districts, subject to the requirements of this section.

(1) A swimming pool may be located within a required rear yard, but shall not extend closer than 15 feet to a rear lot line or closer to a side lot line than the required side yard depth.

(2) Every private swimming pool shall be enclosed by an open type ornamental fence constituting a barrier to small children, four feet in height and with a gate in said fence which shall be locked when the pool is not in use by or under the supervision of the owner or other designated responsible person of the premises upon which it is installed. Private swimming pools of the above ground type which have vertical walls of at least four feet from ground level and removable steps shall not be required to be fenced, so long as steps are removed when pool is not supervised.

(3) All lights used for illumination of the pool area shall be appropriately located or shielded to eliminate direct lighting outside the property lines that disturbs neighbors.

(4) Temporary or inflatable swimming pools designed to hold less than 75 gallons of water, such as those usually described as "child" or "toddler" swimming pools, shall not be subject to the restrictions of this section, provided that the water contained therein is routinely and safely emptied and provided that such swimming pools are used by children under the age of six, only when properly supervised by a competent adult.

(F) *Fences, walls, and hedges.* Fences, walls and hedges shall be permitted in any yard provided that no fence, wall or hedge shall exceed four feet in height in any front yard, six feet in any side yard between the front yard and the rear building line.

(1) No fence, wall or hedge shall exceed six feet in any rear yard; and provided further that there shall be in every fence, wall or hedge a gate or other opening not less than three feet wide and so located as to provide access to the area, building or structures enclosed by said wall, fence or hedge.

(2) The location, nature and height of fences, walls and hedges shall be such that they will not hinder the appropriate development and use of adjacent land and buildings or impair the value thereof.

(3) No fence, wall or hedge or shrubbery shall be placed or be allowed to grow in such a manner as to impede vision at intersecting streets or driveways on the owner's lot or on an adjacent lot.

(4) A fence, wall or hedge shall be in keeping with the surrounding area, and a building permit shall be required prior to construction. No fence, wall or shrubbery shall be placed or allowed to grow in a manner that impedes use of sidewalks where they exist.

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(G) *Signs*. Signs shall be permitted as accessory uses subject to the regulations set forth in this section.

(1) In the Residential and Neighborhood Commercial Districts, the following signs are permitted:

(a) One identifying sign for each dwelling unit or home occupation attached to and parallel with the street wall of a building and not exceeding one square foot in area;

(b) In connection with a principal use other than a home occupation or dwelling: one unlighted identification sign not exceeding ten square feet in area either attached to and parallel to the street wall of a structure or elsewhere in the buildable area of the lot, but not exceeding six feet above adjacent ground;

(c) Temporary real estate signs, unlighted, not exceeding one to a property and not exceeding a total of 12 square feet in area, pertaining to the sale or lease of the premises on which such signs are located; and

(d) Where lighted signs are permitted in the R and NC districts, such lighted signs shall be non-flashing and non-animated; no sign shall be on the roof of a building and no sign attached to a wall of any building shall extend above said wall or project horizontally or vertically more than six inches therefrom; lighted signs shall not be of such construction that they are offensive and intrusive to neighboring properties.

(2) In Industrial and Highway Commercial Districts the following signs are permitted:

(a) One business identification or logo sign, non-flashing and non-animated, attached to and parallel with the wall of the building in which the business is located. Such sign shall not extend above or project more than six inches from the wall of the building and shall not exceed one square foot in area for every foot length of the wall of the business building to which it is attached;

(b) Other non-flashing and non-animated business advertising signs are permitted, however said signs may not exceed in total for any one business establishment ten square feet for every 100 square feet of floor space within the walls of the business establishment. Such signs must be attached to and parallel with the walls of the business building and may not extend above or out from said wall more than six inches. Such signs may not project above the roof line or exceed the height of the principal building;

(c) No more than five free-standing signs (temporary or permanent) are permitted for any business establishment. Only one of the five free-standing signs may exceed 16 square feet, but may not be larger or exceed 40 square feet in area. All other remaining or permitted free standing signs must be 16 square feet or less in surface area;

(d) A free standing sign, non-animated and non-flashing, identifying individual businesses located in malls or shopping centers is permitted as a business identification sign or director, in addition to the above signs. Such free-standing sign is restricted, however, to no more than 12 square feet for each business establishment within the mall or shopping center;

(e) Vehicles or equipment that are regularly and customarily used to transport persons and/or property for the business are exempt from calculations in division (G)(2)(b) above; however, banners, rolling billboards and the like, are prohibited except for a permitted short term promotion of 30 days or less. Such temporary promotions are limited to no more than three times per year per business location; and

(f) Notwithstanding any of the above, the maximum and total square feet of any type of signage, whether business directory, logo, advertising or otherwise, for any business establishment, cannot exceed collectively 250 square feet. Fixed or permanent signs or logos attached to equipment, machines or merchandise such as, but not limited to ice machines, gasoline pumps, are exempt from, and not included within the maximum square footage set forth in this division (G)(2).

(3) Official traffic signs and the like are permitted in any district.

(4) No sign shall project beyond any property line into a public right-of-way, nor shall any sign in any way obscure or conflict with any traffic control light or sign. (See §§ 152.59 and 152.62.)

(5) Signs on awnings or canopies which roll up or drop shall be exempt from the limitation or projection of signs, provided any sign located on an awning shall be affixed flat to the surface thereof, shall be non-illuminated, and shall indicate only the name and/or address of the establishment.

(6) All permitted permanent signs shall be constructed of durable materials and shall be kept in good condition and repair.

(7) No permanent sign, except a name identification sign, shall be erected or altered in any way unless a permit has been issued by the Code Enforcement Officer.

(8) No new sign shall be permitted on any property unless every sign on the property shall be in conformance with this division (G). A sign not expressly permitted is prohibited.

(H) *Certain vehicles prohibited in residential and neighborhood commercial districts.* No commercial vehicle, truck, tractor trailer, trailer or mobile home shall park in any street or right-of-way of any street, nor shall any street, right-of-way or lot within a Residential or NC District be used for the sale of goods, wares or merchandise from motor vehicles. The foregoing shall not prohibit pickups or deliveries ordered and solicited by the owner or occupant of the premises, and the reasonable use of the street for such purpose. Private commercial vehicles designated by the Pennsylvania Motor Vehicle Code as an automobile or a Class R or S vehicle or travel trailer temporarily parked for storage shall not be prohibited from parking on the premises of the owner of said vehicle. All parking of commercial vehicles shall be on the side or rear of the owner's premises within the buildable lot area.

(I) *Disabled motor vehicles.* No motor vehicle which is disabled or from which the wheels, tires, or engine have been removed, or which is not in operating condition, or which does not have a current state motor vehicle license and inspection sticker attached thereto shall be placed, parked, stored or repaired on any street, right-of-way or in any yard in any district. The foregoing shall not prohibit repairs being conducted by a permitted business in the Highway Commercial or Industrial Districts. The foregoing shall not be interpreted to prohibit temporary or minor repairs being made to a property owner's vehicles, provided that those repairs are reasonably anticipated to be completed within two weeks. Repairs which take over two weeks of time to complete must be conducted within an enclosure such as a garage.

(J) *Farm animals.* Farm animals are permitted in the residential district in accordance with § 152.25 provisions subject to a use permit being issued for that land use. A permit will be issued only when secure fencing, housing structure and a plan that keeps housing (stables, pens, corrals and the like), manure piles or other facilities that may create noise, smell or insect accumulation, a minimum of 200 feet from the nearest dwelling, is provided. Swine will not be allowed in areas zoned residential. Fenced grazing areas shall have a minimum four foot setback where abutting R property having a principal residence erected thereon.

(K) *Bed and breakfasts.* Bed and breakfast establishments are not permitted in Residential Districts. Bed and breakfast establishments shall be permitted in Neighborhood Commercial Districts only as a special exception. Upon application in accordance with the procedures set forth herein, the Zoning Hearing Board may permit a bed and breakfast establishment in the Neighborhood Commercial District if it shall find that the proposed use will not detract from the character of the district. In so determining, the Zoning Hearing Board may require wider or deeper yards, screening from abutting properties, and provision of off-street parking, and may impose such restrictions on building design, placement, hours of operation as it deems necessary to protect adjacent or nearby residential properties. Bed and breakfast establishments shall be permitted in the Industrial and Highway Commercial Districts.
(Ord. 145, passed 12-14-2005)

§ 152.41 SUPPLEMENTARY HEIGHT REQUIREMENTS.

(A) *Towers, spires and similar structures.* Erection above the height limits of the district shall be permitted for church towers and spires; roof structures for the housing of stairways, ventilating fans or similar equipment required to operate and maintain a building; and skylight towers, steeples, flagpoles, chimney, smokestacks or similar structures in any district where such uses or structures or parts thereof are permitted.

(B) *Erection of buildings above height limits.* The erection of buildings, towers and spires above the height limits of any district may be permitted as a special exception by the Zoning Hearing Board after application in accordance with procedures outlined in § 152.04. In granting such exception, the Board shall require that the width or depth of all yards be increased by one foot for every one foot by

which a building exceeds the height limit. Before granting such exception, the Board shall also determine that the proposed height exception will not adversely affect or in any way detract from the character and appearance of nearby property.
(Ord. 145, passed 12-14-2005)

§ 152.42 SUPPLEMENTARY AREA REQUIREMENTS.

(A) *Reduction of front yard depth.* When a conforming lot or nonconforming lot of record is situated near a main structure closer to the same street than is permitted by the yard requirements of this chapter, then the depth of the front yard on said lot may be reduced provided consideration is given to the character of the neighborhood with respect to existing side yards and to the effect of such reduction upon adjacent properties.

(B) *Reduction of side yard width.* The Zoning Hearing Board may permit the reduction of side yard widths on lots less than 80 feet wide for one-family dwellings provided consideration is given to the character of the neighborhood with respect to existing side yards and to the effect of such reduction upon adjacent properties.

(C) *Accessory building in rear yard.* The construction of a private garage or parking area shall be permitted in a required rear yard, provided:

- (1) The building or structure shall not be closer to a side lot line than the required side yard width;
- (2) The building or structure shall not be closer to a rear lot line than ten feet;
- (3) No building, structure or carport shall occupy more than 25% of a required rear yard; and
- (4) Plan for structure must be submitted to the Code Enforcement Officer and a building permit obtained before construction.

(D) *Projections into yards.* Certain projections shall be permitted in required yards in accordance with the standards prescribed hereunder:

- (1) Notwithstanding any other provision of this section, no projection shall extend into any required yard more than one-third the required width of such yard or within three feet of any accessory building;
- (2) Open structures such as porches, platforms, terraces, steps and landing places which do not extend above the first floor of the building, having no walls higher than 30 inches and with no roof construction measuring more than four feet from the under side of the supporting plate to the top of the roof may be erected in required front and rear yards provided such structures are not more than 20 feet in depth and not nearer an abutting lot line than the required side yard depth;

(3) Open structures, as above, but having no roofs, may extend into required side yards, no more than one-third the required width of such yards;

(4) Bay windows, window sills, eaves, cornices, chimneys and similar architectural features may extend into required yards not more than two feet;

(5) Open balconies, not covered by a roof or canopy which extend above the level of the first floor may extend into required side yards not more than two and one-half feet and into required front and rear yards not more than four feet; and

(6) Carports shall be considered private garages subject to regulations governing the location of private garages in rear yards (division (C) above).

(E) *Planned developments.* Except as provided by state law, certain variations in lot area and yard requirements may be permitted in planned developments, which shall be considered special exceptions and shall be subject to the following requirements.

(1) In order to qualify for consideration as a planned development in the R District, a tract of land must be under single ownership or control and must be at least one acre in size.

(2) Uses contained within a planned development shall be only those uses which are permitted in the district in question.

(3) The overall density permitted in a planned development shall not exceed the density allowed in the district under the provisions of this chapter. Where a variety of structure types is proposed, the allowable overall tract density shall be calculated on the basis of the amount required under the provisions of this chapter for the number of dwelling units in each structure type.

(4) In a planned development tract, the Zoning Hearing Board may permit variations from the lot width, lot size and yard requirements of this chapter. It must be demonstrated to the Board that said variations are for the purpose of achieving a more efficient and attractive site plan no less beneficial to occupants of the development and to neighboring properties than those under the requirements of this chapter for building on single conforming lots.

(5) Along the periphery of a planned development, yards shall be provided and maintained as required by the regulations of the district in which said development is located.

(6) Land within planned development tracts which is not utilized for building sites but which is required to achieve an allowable overall density for the tract, shall be set aside as permanent open space, and adequate legal guarantees shall be provided to prevent its future development.

(Ord. 145, passed 12-14-2005)

§ 152.43 GENERAL SUPPLEMENTARY REGULATIONS.

(A) *Number of principal buildings on a lot.* Except in planned developments, not more than one principal detached residential building shall be located on a conforming lot.

(B) *Lot area requirements.*

(1) It shall be a continuing responsibility of the owner of a lot on which a building is located not to reduce the size of yards, open spaces or the minimum lot area required for said building. No legally required yard or other open space or the minimum lot area allocated to any building shall, by virtue of change of ownership or for any other reason, be used to satisfy yard, other open space or minimum lot area requirements for any other building.

(2) No lot shall hereafter be divided into two or more lots and no portion of a lot shall be sold unless all lots resulting from such subdivision or sale shall conform with all the area requirements of the district in which the property is located. No lot shall be so reduced in area that any required yards or open areas will be smaller than, or further reduced if already less than, the minimum requirements for the district in which said lot is located.

(3) All yards and other open spaces allocated to a building shall be located on the same lot as such building.

(C) *Clear sight triangle.* In order to prevent the creation of a traffic hazard by limiting visibility at a street intersection, no structure, building, earthen bank or vegetation exceeding one and one-half feet in height above the finished paved area at the center of the roadway shall be allowed within the clear sight triangle (§ 152.02) on corner lots.
(Ord. 145, passed 12-14-2005)

NONCONFORMING LOTS, STRUCTURES AND USES**§ 152.55 INTENT AND PURPOSES.**

Within the district, established by this chapter or amendments that may later be adopted, there exist lots, structures and uses of land and structures which were lawful before this chapter was passed or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendment. It is the intent of this chapter to permit such nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved.

(Ord. 145, passed 12-14-2005)

§ 152.56 REGISTRATION OF NONCONFORMING STRUCTURES AND USES.

All nonconforming structures and uses shall be registered with the Code Enforcement Officer in compliance with § 152.04.

(Ord. 145, passed 12-14-2005)

§ 152.57 NONCONFORMING LOTS.

(A) In any district in which one-family dwellings are permitted, notwithstanding other provisions of this chapter, a one-family dwelling and customary accessory buildings may be erected on any single lot of record on the effective date of this chapter or amendment thereto.

(B) This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are applicable to the district, providing that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.

(C) Reduction of yard widths shall be granted only through action of the Zoning Hearing Board as prescribed in § 152.42(B).

(Ord. 145, passed 12-14-2005)

§ 152.58 NONCONFORMING USES OF LAND.

Where, on the effective date of this chapter or amendment thereto, a lawful use of land exists that is made no longer permissible under the provisions of this chapter as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions.

(A) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of this chapter or amendment thereto.

(B) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.

(C) If any such nonconforming use of land ceases for any reason for a period of more than 12 consecutive months, any subsequent use of such land shall conform to the regulations of this chapter. Any additional extension of time may be granted at the discretion of the Zoning Hearing Board.

(Ord. 145, passed 12-14-2005)

§ 152.59 NONCONFORMING STRUCTURES.

With the exception of signs, where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of the ordinance by reason of restriction on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

(A) The structure conforms in use and is nonconforming only because of failure to meet area, width, yard, height or bulk requirements of the district in which it is located, said structure shall have the same rights and privileges of continuance, maintenance and alteration as conforming structures in the same district, provided the degree of nonconformity is not increased.

(B) Should any structure be completely destroyed, it shall not be reconstructed except in conformity with this chapter. **COMPLETELY DESTROYED** shall mean 90% or more destruction.

(C) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.
(Ord. 145, passed 12-14-2005)

§ 152.60 NONCONFORMING USES OF STRUCTURES.

If a lawful use of a structure, or of structures and premises in combination, exists at the effective date of adoption or amendment of this chapter, that would not be allowed in the district under the terms of this chapter, the use may be continued so long as it remains otherwise lawful, subject to the following provisions.

(A) An existing structure devoted to a use not permitted by this chapter in the district in which it is located may be enlarged, extended, constructed, reconstructed or structurally altered up to 35% of the floor area presently used for nonconforming purposes within the structure, subject to review by the Planning Committee and approval by the Zoning Hearing Board: the Planning Committee and the Zoning Hearing Board shall utilize the following performance standards in weighing the expansion of the nonconforming use of structure:

- (1) Minimum setback depths are in compliance; and
- (2) Off-street parking is provided per § 152.40(C) requirements.

(B) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the Zoning Hearing Board shall find that the proposed use is no more detrimental to the district than the existing nonconforming use. In permitting such change, the Zoning Hearing Board may require appropriate conditions and safeguards.

(C) Any structure, or structure and land in combination, in or on which a nonconforming use, is superseded by a permitted use, shall not be allowed to return to any nonconforming use thereafter.

(D) When a nonconforming use of a structure or structure and premises in combination, is discontinued or abandoned for 12 consecutive months, only a conforming use of the structure, or structure and premises in combination, shall be permitted.

(E) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.
(Ord. 145, passed 12-14-2005)

§ 152.61 REPAIRS AND MAINTENANCE.

Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
(Ord. 145, passed 12-14-2005)

§ 152.62 USES UNDER SPECIAL EXCEPTION PROVISIONS.

(A) Any use for which a special exception permit is granted in accordance with the provisions of this chapter shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

(B) Any use lawfully in existence on the effective date of this chapter which is located in a district in which said use may be permitted as a special exception shall be considered a special exception and shall have the same rights and privileges of continuance maintenance, enlargement and expansion that are permitted for a conforming use in the same district.
(Ord. 145, passed 12-14-2005)

§ 152.63 ADMINISTRATION AND ENFORCEMENT.

(A) *Occupancy permits.*

(1) An occupancy permit shall be required for any new construction, new use, change in use of land or structures or for the privilege of reinstating, changing or extending a nonconforming use of land or structures, where permitted by this chapter.

(2) An occupancy permit must be applied for:

(a) Simultaneously with an application for a building permit for the construction or structural alteration of any structure;

(b) At the time of a change in use of any land or structure; and

(c) In the case of a nonconforming use of land or structure, within 30 days after notification by the Code Enforcement Officer that a use of land or structure exists which is not in conformity with the provisions of this chapter or any amendments thereto.

(3) All applications for occupancy permits, except those for the reinstatement of a nonconforming use of land or structures, shall be accompanied by a site plan, acceptable to the Code Enforcement Officer which sets forth, at a minimum, the dimensions of the subject land, the size and location of existing structures, if any, as well as the size, location and other applicable dimensions and information regarding the proposed structure(s) or alterations. The application shall include such other information that may be required to determine conformity with the provisions of this chapter.

(4) No building permit shall be issued unless the structure and use set forth in the application conform to the requirements of this chapter.

(a) An occupancy permit shall be issued following inspection and approval of the completed structure or alteration by the Code Enforcement Officer or Uniform Construction Code Building Inspector, as may be applicable, and that official's verification that it was constructed and completed in accordance with the plans submitted, the requirements of this chapter as well as the requirements of any state laws or building codes, including the Pennsylvania Uniform Construction Code, 34 Pa. Code Chapters 401 to 405, regulating the construction of buildings, alterations, improvements or other structures. Such inspection shall take place within the time prescribed by law following the applicant's notification that the subject building, alteration, improvement or other structure is completed.

(b) If construction on the subject structure has not commenced within 90 days after the filing of an application for an occupancy permit, a new application shall be required unless the existing application is extended by the Code Enforcement Officer or Uniform Construction Code Building Inspector, as applicable, for cause shown. If extended, construction must commence during such expanded period.

(c) If construction has not been substantially completed within one year of the date of the filing of an application of an occupancy permit, the building permit shall expire, and further work shall not proceed until a new application has been filed and a new building permit has been obtained.

(d) Pending the issuance of an occupancy permit, a temporary certificate of occupancy may be issued by the Code Enforcement Officer for a period not exceeding six months during the completion of alterations or partial occupancy of a structure, pending its completion. Such temporary certificates

shall not be construed as altering the rights, duties or obligations of either the owners of the property or the borough in respect to the use or occupancy of the premises. Such temporary certificate shall not be issued except under restrictions and provisions as will adequately ensure the safety of the occupants.

(5) If only a change in the use of any land or structure or a change in the use of any nonconforming structure is involved, and if such change in use is permitted under the terms of this chapter, the Code Enforcement Officer shall immediately issue same. Such occupancy permit shall be void, however, if not exercised or renewed within six months of the date of its issue. The Code Enforcement Officer shall take action on all applications on occupancy permits, either by disapproving the application or by issuing a permit or temporary certificate of occupancy within ten days of the filing of such application.

(6) A fee shall be charged for the filing of each application for an occupancy permit or permit of temporary certificate of occupancy. Such fee shall be established by the Borough Council, by resolution, and shall be non-refundable.

(7) The Borough or the Code Enforcement Officer, as may be designated by Council, shall keep a record of all issued permits, temporary certificates of occupancy, and accompanying site plans. Copies may be obtained by any person or party having an interest in the structure or land affected thereby, at a cost established by the Borough Council.

(8) Failure to obtain and maintain an occupancy permit or a temporary certificate of occupancy, as the case may be, shall be a violation of this chapter and shall be subject to the penalties set forth herein.

(9) Any section of this chapter which requires the registration of a nonconforming structure or use shall be deemed to be in compliance if the owner applied for and received an occupancy permit. Upon change of any nonconforming use to a conforming use, the owner may request that some use be deleted from any list or map showing the nonconforming use of the property.

(10) The Code Enforcement Officer shall enforce the provisions set forth herein by issuing occupancy permits only for those structures and uses that comply with the provisions of this chapter, including the issuance of occupancy permits for special exceptions and variances which are approved by the Zoning Hearing Board.

(11) If the Code Enforcement Officer shall find that any of the provisions of this section are being violated, such Officer shall notify the person responsible for such violation, in writing, indicating the nature of the violation and setting forth the action necessary to correct it. The Code Enforcement Officer shall order discontinuance of any illegal use of land, buildings or structures, shall order the removal of illegal buildings or structures or any illegal additions, alterations or structures in occupancy changes; the said Code Enforcement Officer is empowered to order the discontinuance of any unauthorized work being done, or shall take any other action set forth in this chapter to ensure compliance with and to prevent the violations of these provisions.

(B) Powers, duties and responsibilities of Code Enforcement Officer.

- (1) Maintain all records required by this chapter;
 - (2) Collect fees required for any applications or permits;
 - (3) Receive, file and forward to the Borough Council all applications for amendments to this chapter;
 - (4) Receive, file and forward to the Zoning Hearing Board, with a copy to the Borough Council, if applicable, all applications for special exceptions, appears or variances in accordance with the provisions of this chapter; and
 - (5) Receive, file and forward to the Borough Council all applications for conditional uses in accordance with the provisions of this chapter.
- (Ord. 145, passed 12-14-2005)

§ 152.99 PENALTY.

(A) Any person, partnership, corporation or other entity who violates the provisions of this chapter shall, upon being found liable therefor in a judicial proceeding commenced by the municipality, be liable as follows:

- (1) In the event of a first offense, by a judgment of not more than \$300 per day;
- (2) In the event of a second or subsequent offense, by a judgment of not less than \$300 nor more than \$600 per day; and
- (3) All court costs, costs of prosecution including Borough attorney's expenses, engineering fees, consultant fees, incurred in prosecution.

(B) In addition, in any case of any zoning or land use violations, either set forth herein, or in other valid and binding laws, the Code Enforcement Officer, with approval of Borough Council or the Borough Solicitor, may institute in the name of the Borough any appropriate action or proceeding permitted by law including, but not limited to, actions to prevent, restrain, correct or abate any violations.

(Ord. 145, passed 12-14-2005)

