

**BOROUGH OF SOUTHMONT**  
**CAMBRIA COUNTY, PENNSYLVANIA**  
**ORDINANCE NO. 359**  
**ZONING ORDINANCE**

ARTICLE I    PRELIMINARY PROVISIONS

Section 101    Enacting Clause

Be it ordained and enacted by the Borough of Southmont Council assembled, and by the authority of the same, that from and after the passage and approval of the following regulations the same shall be in full force and effect.

Section 102    Short Title

This Ordinance shall be known as the Borough of Southmont Zoning Ordinance, and the map referred to herein and made a part of this Ordinance shall be known as the Borough of Southmont Zoning District Map.

Section 103    Effective Date

The effective date of this Ordinance shall be five days after the signature of approval by the Council.

Section 104    Validity and Conflict

Should any section or provision of this Ordinance be declared invalid, the same shall not affect the validity of the Ordinance as a whole nor any part thereof other than the part so declared to be invalid. Where a provision of this Ordinance is found to be in conflict with a provision of any building or housing code, or in any applicable health regulations, or in any other ordinance of the Borough existing on the effective date of this Ordinance, or in any regulation issued under the authority of such code or ordinance, the

provision which established the higher standard for the protection of health, safety and welfare shall prevail.

## Section 105 Purpose and Community Objectives

The purpose of this Zoning Ordinance shall be designed:

1. To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, civil defense, disaster evacuation, the provisions of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewage, schools, public grounds and other public requirements, as well as:
2. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers. This Zoning Ordinance has been made in accordance with an overall program, and with consideration for the character of the municipality, its various parts and the suitability of the various parts for particular uses and structures.
3. To facilitate the development of the Borough primarily as a residential area with the preservation of natural beauty, supplemental non-residential development and to relate any plan of land use development with local fiscal considerations.

## Section 106 Filing

This Ordinance, including the Zoning Ordinance Map, together with any succeeding amendments thereto, shall be on file and may be viewed or purchased by any interested party in the Borough offices.

## ARTICLE II RULES AND DEFINITIONS

### Section 201 Rules

The following rules of construction shall apply to this Ordinance:

1. The particular shall control the general.

2. In case of any difference of meaning or implication between the text or this Ordinance and any caption or illustration, the text shall control.
3. The word “shall” is mandatory and not discretionary. The word “may” is permissive.
4. Words used in the present tense shall include the future, words in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
5. The phrase “used for” includes “arranged for”, “designed for”, “intended for”, “maintained for”, and/or “occupied for”.

## Section 202 Definitions

1. **ACCESSORY BUILDING OR ACCESSORY USE:** A building or use customarily incidental and subordinate to the principal building or use and located on the same lot with such principal building or use. An accessory use includes, but is not limited to, the following:
  - A. Children’s playhouse, garden house, or private greenhouse.
  - B. Civil defense shelter serving not more than two (2) families.
  - C. Garage, shed, or building for domestic storage.
  - D. Incinerator incidental to residential use.
  - E. Storage of merchandise normally carried in stock on the same lot with any commercial use unless such storage is excluded by the district regulations. Such structure shall be constructed or maintained after a permit has been granted and upon the payment of the appropriate fee.
  - F. Parking boats, boat trailers, and travel trailers not used as a dwelling on the premises.
  - G. Private garage.
  - H. Private swimming pool appurtenant to an allowed use on the same lot when meeting the yard depth and width requirements of the district for principal buildings and when the swimming pool or the property on which it is located is adequately fenced to prevent free access of small children and meets all applicable health and sanitary requirements.

- I. Non-paying guest house or rooms for non-paying guests within an accessory building provided such facilities are used for the occasional housing guests or occupants of the principal building and not for permanent occupancy by others as housekeeping.
  - J. Servants' quarters or servants' house.
  - K. Off-street motor vehicle parking area; loading and unloading facility.
  - L. Fences/enclosure walls: All fences or enclosure walls shall be open having a ratio of solid portion to open portion of not less than one (1) to one (1). Solid fences or enclosure walls may be constructed in a portion of a rear yard of a lot provided the type, design, size and location are approved by the Zoning Officer.
  - M. Signs.
2. ALLEY: A service way at least fifteen (15) feet wide, providing a secondary public means of access to abutting properties.
  3. ALTERATIONS: As applied to a building or structure, a change or rearrangement in the structural parts or in the existing facilities, or an enlargement whether by extending on a side or by increasing in height, or the moving from one location to another, or any change in use from that of one zoning district classification to another.
  4. ALTERATIONS, STRUCTURAL: Any change in the supporting members of a building such as bearing walls, columns, beams, girders, or foundations.
  5. APARTMENT: A room or suite of rooms in a multiple-family structure which is used as a single housekeeping unit, and which contains complete kitchen, bath and toilet facilities, permanently installed.
  6. APARTMENT BUILDING: A building used by three (3) or more families living independently of each other and containing dwelling units.
  7. AREA, BUILDING: The total of areas taken on a horizontal plane at the main grade level of the principal building exclusive of uncovered porches, terraces, steps, garages, and other accessory buildings.
  8. AUTOMOBILE REPAIR, MAJOR: Engine rebuilding or major reconditioning of work or damaged motor vehicles or trailers; or trailers; collision service; including body, frame or fender straightening or repair; overall painting of vehicles.

9. AUTOMOBILE REPAIR, MINOR: Incidental repairs, replacement of parts; motor service to automobiles; state inspection; but not including any operation specified under Automobile Repair, Major, above.

10. BASEMENT: A story partly underground, but having at least one-quarter (1/4) of its height above the average level of the adjoining ground. 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 five (5) feet or more or if the basement is used for business or dwelling purposes.

11. BILLBOARD: Structure, building wall, or other outdoor surface used to display lettered, pictorial, sculptured, or other matter which directs attention to any product, commodity, or service offered only elsewhere than on the premises or as a minor and incidental service on the premises.

12. BOARD: The Zoning Hearing Board of the Borough of Southmont.

13. BUFFER AREA: A strip of land which is planted and maintained in shrubs, bushes, trees, grass, or other landscaping material and within which no structure is permitted except a wall or fence.

14. BUILDING: A structure having a roof supported by columns or walls, for the shelter of persons, animals, chattels, or property. When separated by walls which are common with the walls of adjoining dwellings, each portion of such structure shall be considered as separate building.

15. BUILDING OR SET BACK LINE: The line within a property defining the required minimum distance between any building and the adjacent right-of-way or property line. This face includes sun parlors and covered porches whether enclosed or unenclosed, but does not include walks, steps, paved areas or terraces.

A. FRONT SET BACK LINE: The line nearest the front of and across a lot establishing the minimum open space to be provided between the front line of buildings and structures and the front lot line, or thoroughfare right-of-way, if front lot line is deemed inappropriate by the Zoning Officer.

B. SIDE SET BACK LINE: The line nearest the side of and across a lot establishing the minimum open space to be provided between the side line of buildings and structures and the side lot line.

C. REAR SET BACK LINE: The line nearest the rear of and across a lot establishing the minimum open space to be provided between the rear line of buildings and structures and the rear lot line.

16. **BUILDING HEIGHT:** The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eave and ridge for gable, hip, and gambrel roofs.

17. **CHILD:** A person under sixteen (16) years of age.

18. **COVERAGE:** That percentage of the lot area covered by the building area.

19. **DAY CARE CENTER:** A facility, whether operated for profit or not for profit, in which care is provided for seven (7) or more children, at any one time, where child care areas are not being used as a family residence.

20. **DISTRICT, ZONING:** A section of the Borough for which uniform regulations governing the use height, area, and intensity of use of buildings and land and open spaces about buildings are herein established.

21. **DWELLING:** A building designed or used exclusively as the living quarters for one or more families. Such dwelling shall be constructed or fabricated permanently in place on a foundation and shall meet area requirements as established for each zoning district. Any building designed for movement with an axle and wheel (mobile home) shall not be considered a dwelling under this definition.

22. **DWELLING, ONE FAMILY:** A detached building designed for or occupied exclusively by one family.

**TWO-FAMILY:** A building designed for or occupied exclusively by two families living independently of each other, with separate dwelling unit entrances.

**MULTIPLE-FAMILY:** A dwelling or group of dwellings on one plot or lot containing separate living units or dwelling units for three or more families, but which may have joint services or facilities or both.

**GROUP:** A group of two or more one-family, two-family, or multiple-family dwellings occupying a lot in one ownership and having a yard in common.

**MULTI-STORY MULTIPLE FAMILY:** A multiple-family dwelling of more than three (3) stories.

**TOWN HOUSE:** A multiple family dwelling divided by party walls into distinct and non-communicating units, each dwelling unit of which has direct access to the outdoors.

23. **FAMILY:** One or more persons related by blood, marriage, or adoption, or three unrelated persons living as a household in a dwelling unit. May also include domestic servants and gratuitous guests.

24. FAMILY DAY CARE HOME: Any premises other than a child's own home, operated for profit or not for profit, in which child day care is provided at one time to no more than six (6) children, who are not relatives of the care giver.

25. FLOOR AREA: The sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls, or from the centerline of common walls separating buildings. For purposes of determining parking and loading space requirements for the several zoning districts herein, the "floor area" of a building or buildings shall include: basement space, penthouses, attic space providing structural headroom of seven and one-half (7 ½) feet or more, interior balconies and mezzanines, enclosed porches, accessory used other than accessory off-street parking, lobbies, and hallways. For determination of parking and loading space requirements, the following areas shall not be included: Cellar space, elevator shafts and stairwells, floor space for mechanical equipment as necessary to service the needs of the building, uncovered steps, terraces, breezeways, open spaces unroofed unless specifically required in the parking regulations herein, and fitting and dressing rooms.

26. GARAGE, PRIVATE: An accessory building whose primary purpose is housing only motor driven vehicles the property of and for the use of the occupants of the lot on which the private garage is located.

27. GARAGE, PUBLIC: Any garage, other than a private garage, available to the public, and which is used for storage, parking, repair, rental, greasing, washing, servicing, adjusting, or equipping of motor-driven vehicles.

28. HEIGHT: See Building Height, herein.

29. HOME OCCUPATION: An accessory use of a service character within a dwelling by residents which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than a small name plate, measuring not more than one hundred forty-four (144) square inches, and in connection therewith there is not involved the exhibition of stock in trade. The secondary use shall not be carried on in an adjacent separate, such as a garage or other out building, shall not constitute more than twenty-five percent (25%) of the habitable living area and shall not employ more than one (1) other person than a resident family member. A home occupation shall be permitted by a special exception according to the criteria stated in Section 1202 C.

30. HOSPITAL: The term "hospital" shall include sanitarium, sanatorium, preventorium, clinic, rest home, nursing home, convalescent home, and any place for the diagnosis, treatment, or other care of human ailments, and shall be deemed to be limited to such places.

31. INSTITUTIONAL HOUSE: A public or private benevolent establishment devoted to the shelter, maintenance, or education and care of minor children; homeless aged, or infirmed persons; or members of a religious community. This classification

shall not include almshouses, penal or reformatory institutions, nursing homes or institutions for the custody, care or treatment of persons suffering from amentia, mental derangement, or drug or alcohol addiction.

32. **LOADING SPACE:** A space within the main building or on the same lot therewith providing for the standing, loading, or unloading of vehicles.

33. **LOT:** A parcel, tract, or area of land accessible by means of public street or private right-of-way. It may be a single parcel separately described in a deed or plat which is recorded in the office of the County Recorder, or it may include parts of or a combination of such parcels when adjacent to one another and used as one parcel.

34. **LOT, CORNER:** A lot at the junction of two or more intersecting streets and having frontage on two or more such streets.

35. **LOT, DEPTH OF:** The mean horizontal distance between the front lines and the rear lot line, measured midway between the side lot lines.

36. **LOT, INTERIOR:** A lot other than a corner lot or a through lot.

37. **LOT LINE, FRONT:** In the case of an interior lot, the line separating the lot from the street. In case of a corner lot, the line separating the narrowest frontage of the lot from the street.

38. **LOT, THROUGH:** A lot having frontage on two parallel or approximately parallel streets and which is not a corner lot.

39. **LOT, WIDTH:** The dimension of a lot, measured between the side lot lines on the building line.

40. **MOBILEHOME:** 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 operations, and constructed so that it may be used without a permanent foundation.

41. **MOBILEHOME LOT:** A parcel of land in a mobilehome park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobilehome, which is leased by the park owner to the occupants of the mobilehome erected on the lot.

42. **MOBILEHOME PARK:** A parcel of land under single ownership which has been planned and improved for the placement of mobilehomes for nontransient use, consisting of five (5) or more mobilehome lots.



43. MODULAR HOME: A transportable, single family dwelling intended for permanent occupancy contained in two or more units and designed for use with a permanent foundation.
44. MUNICIPAL OR PUBLIC BUILDING: Any building or structure erected, altered and/or occupied by a governmental or public agency or organization providing services and facilities for the general public.
45. NON-CONFORMING USE: A building or use of land lawfully existing on the effective date of this Ordinance that does not completely conform to the use regulations for the district in which it is located.
46. NURSERY SCHOOL: A school (public or private) designed to provide daytime care or instruction for two or more children of preschool age.
47. OFFICE STRUCTURE: A structure designed and used only for office and administrative activities, and shall not include those activities of a commercial nature.
48. PARKING LOT: Any lot, parcel or yard used in whole or in part for the storage or parking of two or more vehicles where such usage is not incidental to or in conjunction with a one-family or two-family dwelling.
49. PARKING SPACE: An off-street space available for parking of one motor vehicle and having an area of not less than one hundred eighty (180) square feet exclusive of passageways and driveways appurtenant thereto giving access thereto and having direct access to a street or alley.
50. PLANNING COMMISSION: The Commission of the Borough of Southmont.
51. SELF-SERVICE LAUNDRY: A business that provides home-type washing, drying or ironing machines, or dry cleaning machines for hire to be used by customers on the premises.
52. SERVICE STATION: A building(s), premises, or portions thereof which are used, arranged, signed, or intended to be used for the retail sale of gasoline, or other fuel for motor vehicles, boats, or aircraft, as well as for minor automobile repair, including state inspection.
53. SIGN: Any surface, fabric, or device bearing lettered, pictorial, sculptured, or other matter designed to convey information visually and exposed to public view; any structure designed to carry the above visual information, any structure or device designed or installed principally to direct or attract attention, except traffic signs or devices.
54. STORY: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

55. STREET: A public or private way other than an alley which affords the principal means of access to abutting properties. If there is no officially established grade, the Borough Engineer shall establish same.

56. STRUCTURE: Anything constructed or erected the use of which requires location on the ground or attachment to something having location on the ground.

57. SUBSTANDARD STRUCTURE: That which is built or constructed, including without limitations because of enumeration, buildings for any occupancy or use whatsoever, fences, signs, billboards, fire escapes, stairways, chute escapes, railings, water tanks, towers, open grade steps, sidewalks or stairways, tents or anything erected and framed of component parts which is fastened, anchored or rests on a permanent foundation or on the ground. Said structure shall be determined to be a public nuisance and substandard if:

A. The physical condition or use of any premises regarded as a public nuisance at common law; or

B. Any physical condition, use or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including but not limited to abandoned wells, shafts, basements, excavations and unsafe fences or structures; or

C. Any premises which have unsanitary sewerage or plumbing facilities; or

D. Any premises designated as unsafe for human habitation or use; or

E. Any premises which are manifestly capable of being a fire hazard, or are manifestly unsafe or unsecure as to endanger life, limb or property; or

F. Any premises from which the plumbing, heating and/or facilities required by any code have been removed, or from which utilities have been disconnected, destroyed, removed or rendered ineffective, or the required precautions against trespassers have not been provided; or

G. Any premises which are unsanitary, or which are littered with rubbish or garbage or which have an uncontrolled growth of weeds; or

H. Any structure or building that is in a state of dilapidation, deterioration or decay; faulty construction; overcrowded; open, vacant or abandoned; damaged by fire to the extent as not to provide shelter, in danger of collapse or failure and is dangerous to anyone on or near the premises.

58. USE: The specific purpose for which land or building is designed, arranged, intended, or for which it may be occupied or maintained. The term PERMITTED USE or its equivalent shall not be deemed to include any non-conforming use.

59. YARD: A space on the same lot with a principal building, open, unoccupied and unobstructed by structures, except as otherwise provided in this Ordinance.

60. YARD, FRONT: A yard extending across the full width of the lot, unoccupied other than by steps, walks, terraces, driveways, lampposts, and similar structures, the depth of which is the least distance between the lot line and building line.

61. YARD, REAR: A yard extending across the full width of the lot between the rear of the principal building and the rear lot line, unoccupied by other than accessory buildings which do not occupy more than thirty (30) percent of the space, and steps, walks, terraces, driveways, lampposts, and similar structures, the depth of which is the least distance between the rear lot line and the rear of such building.

62. YARD, SIDE: A yard between the principal building and the side lot line, extending from the front yard, or from the front lot line where no front yard is required, to the rear yard. The width of the required side yard is measured horizontally and at ninety (90) degrees with the side lot line, from the nearest part of the principal building.

63. ZONING OFFICER: The person duly appointed by the Borough of Southmont to enforce and administer the provisions of this Ordinance.

### ARTICLE III ESTABLISHMENT OF DISTRICTS

#### Section 301 Establishment of Districts and the Zoning District Map

The Borough of Southmont is hereby classified and divided into three (3) districts and designated as follows:

R District	Residential
C-U District	Community Unit
C District	Commercial

The Zoning District Map which is attached hereto and made a part hereof shows the boundaries of the areas covered by the districts listed in this section.

#### Section 302 Interpretation of District Boundaries

A. Where district boundaries are indicated as approximately following the center lines of streets, highways, street lines, highway right-of-way lines, or streams, such centerlines shall be construed to be such boundaries.

B. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundaries.

C. Where district boundaries are so indicated that they approximately follow or are parallel to the centerlines of streets, highways, or the rights-of-way of same, such district boundaries shall be construed to be parallel thereto and at such distance there from as indicated on the Zoning District Map.

D. Where the boundary of a district follows a stream or other body of water another municipality or municipality boundary, the boundary shall be deemed to be the limits of jurisdiction of the Borough, unless otherwise indicated.

E. Where a buffer is required to be planted or maintained zoning districts, the boundary line shall construed as that buffer.

## ARTICLE IV GENERAL PROVISIONS

### Section 401 Conformance and Permits

No building or land shall, after effective date of this Ordinance, except for existing non-conforming uses, be used or occupied and no building or part thereof shall be erected, moved, demolished or altered unless in conformity with the regulations herein specified for the district in which it is located, and then only after applying for and securing all permits and licenses required by all laws and ordinances. Further, no construction or development shall be undertaken within Southmont Borough unless in compliance with the provisions of Southmont Borough Ordinance #312 governing construction and/or development within a flood plain area as defined and regulated therein.

### Section 402 Construction or Alteration

No building shall hereafter be erected or altered to exceed the height to accommodate or house a greater number of families, to occupy a greater percentage of lot area, or to have a narrower or smaller rear yard, side yard, or front yard than is herein specified for the district in which the building is located.

### Section 403 Yards

No part of a yard or other open space about any building required for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or open space similarly required for another building.

### Section 404 Substandard Dwellings

No structure shall be used or occupied as a dwelling if such structure is in need of such major structural repairs as to render it unsafe or unsanitary, or if the premises do not have connection with the municipal sewer system or alternative sanitary sewage facilities approved by the local public health authorities having jurisdiction.

### Section 405 Uses Requiring Site Plans

#### A. All Uses of Property for One and Two-Family Dwelling and Accessory Buildings:

The application for a permit shall be accompanied by a site plan at an appropriate scale to indicate the following:

The size and shape of the property including property line dimensions, corners, easements, right-of-ways, and names of adjacent properties.

The size, shape, height, area, and location of all principal and accessory buildings. Dimensions from all buildings and proposed buildings to adjacent property lines shall be indicated.

#### B. Uses of Property Other Than One and Two-Family Dwellings:

In addition to the above requirements, uses of all property in C-U and C Districts, shall, in addition to conforming to any and all regulations pertaining thereto that are specifically set forth in this Ordinance show the following:

- Traffic circulation features within the site
- The location of vehicular access onto the site
- The provision of off-street parking and loading facilities

- The provision of open space
- The landscaping, paving, fencing, walls and signs on the site
- Provision for surface water drainage

#### Section 406 Public Utility Lines

Area for the transportation, distribution and control of water, gas, electricity, oil, steam, telegraph and telephone required to be located on a lot, shall not be held to reduce yard dimensions for other buildings on a lot. A plan prepared by the utility company indicating the size, capacity, and location of all facilities shall be filed with the Borough prior to the installation or alteration of any utility within a street right-of-way or easement.

#### Section 407 Lots of Record Not Meeting Lot Area Requirements

Nothing in the district regulations shall be held to prohibit the erection of a one-family dwelling upon a lot whose size is inadequate to meet the lot area regulations set for the district, provided such a lot on the effective date of this Ordinance was held under separate ownership from the adjoining lots or is a lot in a recorded plan which complies with all district regulations except lot area requirements. Front, side and rear yard shall conform as closely as possible with the requirements of this Ordinance.

#### Section 408 Storm Water

Adequate storm water drainage facilities shall be installed in order to insure that storm water does not flow on to abutting property or abutting sidewalks at a detrimental rate. The rate of storm water runoff from a property after construction and/or development shall not exceed the rate of runoff prior to the construction and/or development. For purposes of runoff rate calculations, a storm frequency of one (1) in twenty-five (25) years and a storm duration of twenty-four (24) hours shall be used. Runoff calculations shall be submitted on forms provided by the Borough using formulas approved by the Southmont Borough Council by resolution along with the site plan for review and approval.

### ARTICLE V PROVISIONS GOVERNING THE RESIDENTIAL DISTRICT

Section 501 R-Residential District

Within the R-Residential District, the following regulations shall apply:

A. Permitted Uses:

1. Single-family dwelling
2. Two-family dwelling
3. Multiple-family dwelling
4. Townhouse
5. Cemetery
6. Municipal or public building
7. Municipal recreational uses, including playgrounds, but not a park operated for profit.
8. Public, private or parochial school having a curriculum similar to that given in a public school.
9. Accessory use to any of the above.

B. Uses by Special Exception:

1. Home occupation
2. Family Day Care Home
3. Church
4. Mobile Home Park

C. Height: The maximum height of buildings hereafter erected or altered shall be as follows:

1. Church or similar place of worship – forty-five (45) feet and seventy-five (75) feet for steeples or towers.
2. Fence – not to exceed five (5) feet.

3. Other permitted uses – thirty-six (36) feet.

D. Building Lines and Yard Setback: No building or structure shall be erected or enlarged unless the minimum setbacks are provided.

1. Lots having a depth of one hundred fifty (150) feet or more:

(a) Front yard – 40 feet

(b) Side yard – 5 feet

(c) Rear yard – 5 feet

(d) Corner lots – 20 feet from the side street. Street running parallel or in the direction of the side of the lots as laid out on the Southmont Plan of Lots by F.W.Otto or the Cambria Land and Improvement Company shall be considered as side streets.

2. Lots having a depth of less than one hundred fifty (150) feet:

(a) Front yard – 30 feet

(b) Side, rear and corner lots as provided in l(b), (c) and (d) above.

For purposes of this Ordinance, shrubbery, fences or steps shall not be considered, but an eave, overhang, projection, roof or other construction extending more than twelve (12) inches beyond a wall or other support shall be considered as part of a structure.

E. Percentage of Lot Coverage: All buildings including accessory buildings shall cover not more than fifty percent (50%) of the area of the lot.

F. Area: No dwelling unit shall be erected in which the number of dwelling units is in excess of one (1) unit for each four thousand (4,000) square feet of land within the lot upon which such dwelling is erected.

G. Multiple Dwelling Unit Setback: No more than two (2) consecutive or adjoining two-family dwelling units or multiple dwelling units shall be erected in any single block within the Borough unless each two-family or multiple dwelling unit has a minimum side set back from the property line or other dwelling unit of twenty (20) feet.



Section 601 C-U Community Unit District

Within the Community Unit District, the following regulations shall apply:

A. Permitted Uses:

1. Any use permitted in an R-Residential District
2. Multi-story multiple family dwelling
3. Bank
4. Professional offices
5. Convenience store.

B. Uses by Special Exception:

1. Hospital
2. Day Care Center
3. Church or similar place of worship
4. Funeral Home
5. Museum or other philanthropic purpose
6. Public, private or parochial school having a curriculum similar to that given in a public school.

C. Height: The maximum height of buildings hereafter erected or altered shall be as follows:

1. The height of any use permitted in A.1. shall be governed by Section 501C.
2. Fence – not to exceed five (5) feet.
3. All other structures fifty (50) feet.

D. Building Lines and Yard Setback: No building shall be hereafter erected, altered or enlarged unless the following yards are provided and maintained in connection with said building, structures or enlargements.

Front yard – not less than thirty-five (35) feet.

Side yard – not less than fifteen (15) feet.

Rear yard – not less than fifteen (15) feet.

For purposes of set back, the front of a building shall be considered that side on which the principal or main entrance faces.

E. Percentage of Lot Coverage: All buildings including accessory buildings shall cover not more than fifty percent (50%) of the area of the lot.

## ARTICLE VII PROVISIONS GOVERNING THE COMMERCIAL DISTRICT

### Section 701 Commercial District

Within the Commercial District, the following regulations shall apply:

A. Permitted Uses:

1. Administrative offices for commercial and industrial organizations.
2. Amusement establishment, including bowling alleys, dance hall, similar place of recreation when conducted wholly within a completely enclosed building.
3. Auto accessory store, automobile and truck sales and incidental service.
4. Bakery shop, including the baking and processing of food products.
5. Bank, financial institution, savings and loan association, drive-in or main office.
6. Barber shop, beauty shop.
7. Blueprinting, photostating establishment.
8. Business, charitable, or professional office.
9. Bus passenger terminal.

10. Cabinet shop.
11. Candy and ice cream store.
12. Camera and photographic supply shop, retail sales and service.
13. Conversion apartments.
14. Delicatessen.
15. Department store.
16. Dry-cleaning or pressing establishing, when employing facilities for the cleaning or pressing of dry goods received on the premises from retail trade only and including no wholesale cleaning or pressing business and when using non-flammable solvents as approved by the fire department.
17. Dry goods, haberdashery, wearing apparel store.
18. Efficiency apartments.
19. Electrical appliances store, sales, service, repair, but excluding appliance assembly or manufacture.
20. Florist.
21. Funeral home, mortuary.
22. Furniture store, upholstery when conducted as a secondary operation to the sale of furniture and furnishings.
23. Furrier, conducted as a retail operations for trade on the premises only.
24. Garden supplies, seed store, nursery.
25. Gift shop.
26. Hardware.
27. Health club.
28. Hobby shop.
29. Household appliance store, sales and service.

30. Interior decorating business, including upholstering and making of draperies, slip covers and similar articles when conducted as a part of the retail operations and secondary to the main use.
31. Jewelry store
32. Laundry.
33. Liquor store.
34. Medical Clinic.
35. News stands.
36. Paint, wallpaper sales.
37. Pharmacy.
38. Photographers studio, art gallery, including the developing of film when conducted as a part of the retail business on the premises.
39. Plumbing, heating, similar business showroom, excluding shop or repair facilities.
40. Post Office.
41. Printing Shop.
42. Restaurant, cafeteria and snack bar, including the sale of alcoholic beverages.
43. Shoe Store.
44. Sporting goods store.
45. Theater, indoor.
46. Travel Agency.
47. Typewriter, office equipment sales and service.
48. Variety Store.
49. Similar type retail, service, or commercial use not specifically listed herein when authorized by the Zoning Hearing Board after receipt and review of recommendations from the Planning Commission.

B. Uses by Special Exception:

1. Hospital
2. Day Care Center
3. Service station, public garage, or other motor vehicle services.

C. Height: The maximum height of buildings hereafter erected or altered shall be fifty (50) feet.

Fence – not to exceed five (5) feet.

D. Building Lines and Yard Setback: No building shall be hereafter erected, altered or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargements.

Front yard – not less than thirty-five (35) feet.

Side yard – not less than fifteen (15) feet.

Rear yard – not less than fifteen (15) feet.

A one story accessory building may be located within a required rear yard except for the five (5) feet adjacent and parallel to the rear lot line or alley line, but not upon any required buffer area for the storage of motor vehicles, the loading or unloading of merchandise customarily associated with the principal use. Where abutting on R-District, there shall be provided in addition to the rear yard requirement, a buffer area of not less than fifteen (15) feet. Said buffer shall be planted with evergreens.

E. Percentage of Lot Coverage: All buildings including accessory buildings shall cover not more than fifty percent (50%) of the area of the lot.

F. Conditions of Use: In addition to the site plan requirements Article IV, Section 405, the following regulations shall apply:

1. Traffic Study

a. To include comparative analysis of present capacity of street(s) adjacent to the proposed development, together with necessary points of access to off-street parking and loading. Traffic data available from the Highway Department may be utilized providing that such data is deemed current.

b. To include a circulation plan for all street in the vicinity, existing and proposed, which will show the recommendations for controlling, signaling, channelizing, storing, warning, and directing traffic.

2. Landscape and Site Development Plan

a. To include a plan of landscape development which shall include, among other considerations, an area of at least five (5) feet in width along all streets with the exception of approved entrances, to be planted and maintained with trees, shrubbery, or other landscaped material or ornamental fence or wall to serve as a visual screen for parking areas and loading or servicing areas.

b. A buffer area consisting of suitable evergreen landscaping maintained wherever the proposed business abuts on a Residential or Community Unit District.

c. The location, arrangement, size and effect of all outdoor advertising or other signs and lighting proposed to be erected.

3. Surface Water Drainage Plan

Any other authority approval required, when applicable, such as Department of Environmental Resources, State Highway Department, Sewer and Water Authority, Labor and Industry, and similar organizations, shall be obtained before applying for a building or occupancy permit.

G. Architectural Controls: Architectural plans of the building or buildings and structures proposed to be constructed. The approval will be based on the architectural plans creating a unified design which will be in character and proper relationship to the surrounding areas.

H. Off-Street Parking Facilities: Shall be provided as required or permitted under Article VIII.

## ARTICLE VIII SUPPLEMENTARY PROVISIONS

### Section 801 Parking and Loading Facilities

All off-street parking and loading facilities shall be indicated on the site plan as required under Article IV, Section 405 of this Ordinance. Off-street parking and/or loading facilities shall be in compliance with provisions of this Ordinance as follows:

A. Extent of Control: All buildings and structures erected or altered and all land uses initiated after the effective date of this Ordinance shall provide off-street parking and/or loading facilities as required herein. When a building or structure undergoes any increase in the number of dwelling units, gross floor area, seating capacity or other unit of measurement specified for off-street parking or loading facilities, off-street parking and loading requirements shall be determined by the entire building or structure as modified.

B. Schedule of Off-Street Parking Requirements:

- One and two-family dwellings – Two (2) spaces for each unit which shall be undercover.

- Three or more family units – One and one-half (1 ½) spaces for each unit. One space for each unit shall be under cover.

- Bowling alleys, recreation centers, and outdoor recreation facilities – One (1) space for every four (4) customers at maximum capacity and one (1) space for every two (2) persons regularly employed during peak periods.

- Club houses and meeting places of veterans, business, civic, fraternal, labor and similar organizations – One parking space for every fifty (50) square feet of gross floor area in the auditorium, assembly hall, and dining room of such building plus one (1) additional space for every two (2) persons regularly employed during peak shift on the premises.

- Funeral Home and undertaking establishments – Parking or storage space for all vehicles used directly in the conduct of the business plus one (1) parking space for every two (2) persons regularly employed on the premises during peak shift and one (1) space for every six (6) seats in the establishment.

- Hospital and nursing homes – One (1) parking space for each four (4) beds intended for patients, excluding bassinets, plus one (1) per doctor plus one (1) per two (2) employees on peak shift plus one (1) per hospital vehicle.

- Indoor retail business – Parking or storage space for all vehicles used directly in the conduct of such business plus one (1) parking space for

each two hundred fifty (250) square feet of building area used for retail or business purposes.

- Libraries, museum, post offices and similar establishments – Parking or storage space for all vehicles used directly in the operation of such establishment plus one (1) parking space for each two hundred fifty (250) square feet of total floor area.

- Medical and dental clinics – Four (4) parking spaces for each doctor plus one (1) additional space for every two (2) regular employees.

- Offices – One (1) parking space for every five hundred (500) square feet of office space.

- Outdoor and retail business – Parking or storage space for all vehicles used directly in the conduct of such business plus two (2) parking spaces for each person employed on the premises based on maximum seasonal employment plus one (1) parking space for every five hundred (500) feet of lot area used for business purposes. No on street parking.

- Public garages – Indoor or outdoor parking or storage space for all vehicles used directly in the conduct of such business plus three (3) parking spaces for each person regularly employed on the premises. No on street parking.

- Restaurants, indoor and other eating and drinking establishments – One (1) parking space for each table or booth, plus one (1) parking space for every two stools at bar or counter, plus one (1) parking space for every two (2) employees on peak shift.

- Service stations – Parking or storage space for all vehicles used directly in the conduct of the business plus one (1) parking space for each gas pump, three (3) spaces for each grease rack or similar facility and one (1) space for every two (2) persons employed on the premises at maximum employment on a single shift.

- Theaters, auditoriums, churches, and other places of public assembly – One (1) parking space for every six (6) seats available at maximum capacity.

- C. Schedule of Loading Requirements: Every building or structure used for business or trade shall provide space as herein indicated for the loading and unloading of vehicles off the street or public alley. Such space shall have direct access to a public alley or, if there is no alley, to a street. Off-street loading and unloading space shall be in addition to and not considered as meeting a part of the requirements of off-street parking



space. Off-street loading and unloading space shall not be used or designed, intended or constructed to be used in a manner to obstruct or interfere with the free use of any unloading spaces shall have a minimum width of twelve (12) feet and a minimum length of fifty (50) feet. The following off-street loading and unloading space requirements for specific uses shall be provided.

1. Multi-story multiple family dwelling units – In excess of ten (10) units shall have one (1) off-street loading and unloading space for providing service to the structure. No on street parking shall be permitted.

2. Commercial and/or retail building – Shall have one (1) off-street loading and unloading space plus one (1) additional space for every ten thousand (10,000) square feet of floor area devoted to commercial, retail and/or manufacturing use. No on street parking shall be permitted.

D. Design and Development Standards:

1. Area and dimension requirements for parking lots. A required off-street parking space shall be an area of not less than one hundred eighty (180) square feet nor less than nine (9) feet wide by twenty (20) feet long, measured perpendicularly to the sides of the parking space exclusive of access drives or aisles, ramps, columns, or office and work areas, accessible from streets or alleys, or from private driveways or for the storage or parking of passenger automobiles or commercial vehicles under one and one-half (1 ½) ton capacity. Aisles between vehicular parking spaces shall be not less than eighteen (18) feet in width when serving automobiles parked at a forty-five (45) degree angle in one direction; not less than twenty (20) feet in width when serving automobiles parked perpendicularly for two-way aisle movement; and not less than twenty (20) feet in width when serving automobiles parked perpendicularly for one-way aisle movement. When determination of the number of required off-street parking spaces results in a requirement of a fractional space, any fraction up to and including one-half (1/2) may be disregarded, and fractions over one-half (1/2) shall be interpreted as one parking space.

2. Access to adjacent street: Access lanes to a parking lot shall be a minimum width of twenty (20) feet and a maximum width of forty (40) feet. The minimum center line to center line distance between any two curb cut or access points to a parking lot shall be one hundred fifty (150) feet. Signs designating entrances, exits and conditions shall not exceed twenty (20) square feet and shall be erected in a manner which will not restrict the sight distance of persons entering or leaving the lot.

3. Screening and Buffer Requirements: Whenever a parking lot abuts a public street a structurally sound wall or evergreen planting strip shall be installed. Whenever a parking lot abuts a residential district or residential property, a landscaped evergreen buffer strip a minimum width of five (5) feet shall be developed in a manner which will screen the parking lot from residential property or district.

4. Surfacing: All off-street parking space shall be improved with a compacted base surface with all weather dustless material of specifications of said construction must be submitted upon application for the building permit and the requirements established by the permit must be strictly followed.

5. Lighting: Any lighting used to illuminate an off-street parking shall be so arranged as to reflect the light away from adjoining properties.

6. Storm Drainage: Adequate storm drainage facilities shall be designated and installed in accordance with accepted engineering practices. All surface water shall be collected and/or diverted in a manner which does not go onto the surface of adjacent streets, sidewalks or properties.

E. Control of Off-Site Facilities: When required, accessory off-street parking facilities are provided other than on the lot on which the principal use is located, in addition to the above regulations, the following provisions shall apply:

1. The off-site lot may be located only in a "C" or "C-U" district, and shall be within three hundred (300) feet of the use or structure being served.

2. Said parking lot shall be used solely for the parking of passenger automobiles.

3. No commercial repair work, nor storage of automobiles or equipment for a period of greater than 24 hours may be permitted on the lot.

4. No sign of any kind other than designating entrances, exits, and conditions of use shall be maintained on said lot, and shall not exceed twelve (12) square feet in area.

5. Entrances and exits of said parking lot shall be at least thirty-five (35) feet from any adjacent property. A buffer area of fifteen (15) feet

minimum width shall be provided and maintained along all lot lines which do not abut a street.

6. All off-site parking facilities require approval by the Zoning Hearing Board according to the standards for a special exception.

## Section 802 Swimming Pools

A swimming pool in the ground or permanent installation above the ground shall be any pool, lake, or open tank not located within a completely enclosed structure. Swimming pools are permitted in any zone only as an accessory use and are subject to the following:

1. The pool is intended and is to be used solely for the enjoyment of the occupants of the principal use of the property and their guests, and no fee shall be charged.
2. It may not be located closer than five (5) feet to any property line of the property on which the pool is located.
3. The pool or the entire property on which it is located, shall be so walled or fenced so as to prevent uncontrolled access by children from adjacent street or properties, said fence to be at least five (5) feet in height and maintained in satisfactory condition. Pools shall conform to all applicable Pennsylvania Department of Health standards.

## Section 803 Animals in Residence District

Farm animals, hooved animals, and poultry, wild animals and pet snakes shall not be kept in any district.

## Section 804 Safety Limitations of Fences and Shrubbery

No fence shall be constructed or maintained nor shall any shrubbery be planted or maintained within the Borough in a manner or at a location which creates a traffic hazard by impairing visibility from or to a public highway.

## ARTICLE IX SIGNS

## Section 901 General Provisions

Except for signs indicating availability of a building or land for rent or sale, any sign erected or altered after the effective date of this Ordinance shall be in accordance with the provisions and regulations contained in this Article.

- A. A permit shall be required for any sign erected.
- B. All signs shall be constructed and maintained in a safe orderly manner. No sign shall be placed in such a position that it will cause danger to vehicular or pedestrian traffic by obscuring view or causing distraction.
- C. Any sign, if illuminated, shall be non-flashing, shall be of enclosed lamp design, and shall be lighted in a manner not detrimental to any adjacent property or public right-of-way.
- D. No sign, except traffic signs and other official signs, may be erected or extend onto any public street or right-of-way.
- E. Any sign attached to or painted on a building may extend a maximum distance of six (6) inches from the wall to which it is attached, may cover maximum of 25% of the total area of the wall to which it is attached, and shall not extend beyond any point of the line of the building to which the sign is attached.
- F. The height of any sign may not exceed twenty (20) feet, as measured from the ground level to the top of the sign.
- G. No sign that is a part of or is supported by a building shall be erected upon the roof of such a building.
- H. No sign structure erected directly upon the ground shall have less than three (3) feet of clear space between such sign and the ground, however, necessary supports may be extended through such open space.
- I. No signs shall be permitted which are posted, stapled or otherwise permanently attached to public utility poles or trees within the street line.
- J. Non-conforming signs, once removed, shall be replaced only with conforming signs; however, non-conforming signs may be repainted or repaired, providing such repainting or repairing does not exceed the dimensions of the existing sign.

Section 902 Provisions for Residential District

- A. All signs erected in a Residential District shall be on premise signs and shall pertain only to activities being conducted on the lot which the sign is erected.
- B. Signs Permitted in a Residential District are as Follows:
1. A sign indicating the name and number of the owner and/or the necessary use of the dwelling for home occupation or professional purposes provided that the sign does not exceed one (1) square foot in area.
  2. One identification sign may be erected for a multi-family unit provided that the sign does not exceed twelve (12) square feet in area.
  3. A sign customarily incidental to public and semi-public use, provided that the sign does not exceed twelve (12) square feet in area and is at least twenty-five (25) feet from the nearest residential property or building.
  4. Temporary real estate signs, indicating the sale or lease of the property on which the sign is erected provided that the sign does not exceed nine (9) square feet in area; the sign is set back a minimum of five (5) feet from the nearest street, and the sign is removed within thirty days after sales or lease of the property.
  5. Building contractors, architects and professional persons temporary advertisement on or adjacent to a building under construction, may be erected providing that the sign does not exceed thirty (30) square feet in area and it is removed within thirty days after completion of construction.
  6. Street signs, directional signs, and traffic control signs may be erected by the Borough, County, State, or any authorized representative body of government.

Section 903 Provisions for "C" District

- A. In the "C" District, the following signs shall be permitted and the following regulations shall apply:
1. Any sign permitted in an R District.

2. On premise business signs or identification signs not to exceed thirty (30) square feet per sign, however, if there are more than two (2) businesses the total amount of signage shall not exceed sixty (60) square feet.
3. Any sign attached to a building shall cover no more than 25% of surface area of the wall on which this sign is to be erected, shall project no more than six (6) feet from the wall of the building. No sign may project above the roof.
4. Any sign erected shall be maintained in an orderly safe condition. If the owner fails to maintain the sign or structure in a satisfactory condition, the Borough may notify the owner and remove the sign at the owner's expense.
5. No off-premise signs allowed.

#### Section 904 Provisions for "C-U District

In a C-U District, any signs permitted in a "C" District shall be permitted.

### ARTICLE X NON-CONFORMING USES AND BUILDINGS

#### Section 1001 Continuance

The lawful use of a building existing at the time of the effective date of this Ordinance may be continued, although such use does not conform to the provisions hereof.

#### Section 1002 Registration of Nonconforming Use

The Zoning Officer shall identify and register all nonconforming uses and nonconforming buildings and shall issue appropriate rules and procedures for such registration.

#### Section 1003 Nonconforming Lots

A lot held in single and separate ownership or a lot in a recorded plan at the effective date of this Ordinance or of any subsequent amendment hereto which is not of the required minimum area or width may be used for the construction, alteration, or reconstruction of a building, or may be otherwise used, if the construction, alteration, reconstruction, or other use itself is in compliance with the use, yard, setback, density, and other pertinent provisions of this Ordinance.

#### Section 1004 Nonconforming Uses

Except as hereinafter provided, the lawful use of a building or structure or of any land or premises existing at the time of the effective date of this Ordinance or any subsequent amendment, or at the time of a change in the Zoning Map, may be continued although such use does not conform to the provisions hereof or of any subsequent amendment.

A. A nonconforming use may be changed to another nonconforming use by grant of special exception only upon determination by the Zoning Hearing Board, after public hearing, that the proposed new use will be no more detrimental to its neighborhood and surroundings than is the use it is to replace. In determining relative detriment, the Zoning Hearing Board shall take into consideration, among other things: traffic generated; nuisance characteristics (such as emission of noise, dust, and smoke); fire hazards; and hours and manner of operation.

B. A nonconforming use shall not be extended or enlarged, and a nonconforming building shall not be extended or structurally altered unless the Zoning Hearing Board shall as a special exception, authorize the extension of a nonconforming use, or the limited extension of a building which houses a nonconforming use. The Zoning Hearing Board may grant such special exception provided that:

1. It is clear that such extension is not materially detrimental to the character of the surrounding area or the interest of the municipality.
2. It is clear that denial of the use would work on undue hardship upon the landowner.
3. Any extension of a building shall conform to the area, height, and setback regulations of the district in which it is situated.

C. Whenever a nonconforming use of land, premises, building, or structure, or any part or portion thereof, has been discontinued for a period of one year, the non-usage shall create a rebuttal presumption that the nonconforming use has been abandoned, and, in the absence of proof, by a preponderance of the evidence, rebutting the presumption of abandonment, the nonconforming use shall

not thereafter be re-established and all future uses shall be in conformity with the provisions of this Ordinance.

#### Section 1005 Nonconforming Structures

The continuation, alteration, or extension of a nonconforming structure shall be in compliance with the following requirements:

- A. A nonconforming structure being used, or proposed to be used, for a conforming purpose may continue and may be altered or enlarged unless the alteration or enlargement would increase the nonconformity of the structure with respect to the setback requirements (by reason of the physical encroachments of such proposed alteration or enlargement upon the setback areas), the land coverage requirements, or the density requirement of the district in which the structure is located at the time such alteration or enlargement is proposed to be made.
- B. A nonconforming building or structure which has been seriously damaged or destroyed by fire or other casualty may be reconstructed in its former location and to its former dimensions and used for the same purpose for which it was used before its damage or destruction, provided that such reconstruction shall be commenced within one year from the date of damage or destruction and shall be completed within one year after commencement of construction.
- C. A nonconforming building shall not be expanded, enlarged, or structurally altered for a nonconforming purpose unless the Zoning Hearing Board shall as a special exception authorize the expansion, enlargement, or structural alterations. The Zoning Hearing Board may grant such a special exception provided that:
  - 1. It is clear that such extension is not materially detrimental to the character of the surrounding area or the interest of the municipality.
  - 2. It is established that denial of the expansion, enlargement or alteration, etc. would work an undue hardship upon the landowner.
  - 3. Any expansion of a building shall conform to the area, height, and setback regulations of the district in which it is situated.

#### Section 1006 Historical Landmarks



The provisions of this article shall not apply to any building or structure which is designated by the Planning Commission, with concurrence of the Council, to be a “historical landmark.”

## ARTICLE XI ADMINISTRATION & ENFORCEMENT

### Section 1101 Zoning Officer

A. Zoning Enforcement A Zoning Officer shall be appointed by the Borough Council for a term of five (5) years to administer and enforce this Zoning Ordinance.

B. Duties and Powers of Zoning Officer It shall be the duty of the Zoning Officer to enforce literally the provisions of this Ordinance, as amended, and he shall have such duties and powers as are conferred on him or her by this Ordinance and as are reasonably implied for that purpose. The Zoning Officer’s duties shall include but are not limited to the following:

1. Receive applications for and issue permits.
2. Keep an official record of all business and activities, including complaints of a violation of any of the provisions of this Ordinance and of the action taken consequent on each such complaint and a complete list of all non-conforming uses and structures. All such records shall be open to public inspection. File copies of all applications received, permits issued, reports and inspections made in connection with any structure, building, sign and/or land shall be retained as long as they remain in existence.
3. Make inspections as required to fulfill his duties. He shall have the right to enter any building or structure or enter upon any land at any reasonable hour in the course of his duties.
4. Issue permits for special exception uses and for variances only after such uses and/or buildings have been approved by the Zoning Hearing Board in accordance with the regulations of this Ordinance.
5. Be responsible for keeping this Ordinance and the Zoning Map up to date so as to include all amendments thereto.

C. Notice of Violations The Zoning Officer shall serve a notice of violation on any person, firm, corporation, or partnership responsible for violating any of the provisions of this Ordinance, or in violation of a detailed statement or a

plan approved thereunder. Notice of violation shall be in writing, indicating the nature of the violation and action necessary to correct same. If the notice of violation is not complied with, the Zoning Officer shall order the discontinuance of such unlawful use of structure, building, sign and/or land or order that it be torn down or that the conditions complained of be repaired.

## Section 1102 Building Permit

No building, structure, or sign shall be erected, constructed, moved, added to, structurally altered, or permanently improved, nor shall land be put to any use without a permit therefore, issued by the Zoning Officer. No such permit shall be issued except in conformity with the provisions of this Ordinance, or upon written order from the Zoning Hearing Board in the form of an administrative review, special exception, or variance as provided by this Ordinance or by the Court.

A. Form of Application All applications shall be made in writing and shall be accompanied by two (2) sets of plans showing at least the following information where relevant:

1. Actual dimensions and shape of the lot to be built upon.
2. The exact size and location on the lot of buildings, structures, or signs existing and/or proposed extensions thereto.
3. The number of dwelling units, if any, to be provided.
4. Methods of sewage and solid waste disposal, plus information on quantity and quality of sewage involved and proposed method of treatment required.
5. Parking spaces provided and/or loading facilities.
6. Statement indicating the existing or proposed use.
7. Height of structure, building or sign.
8. All other information necessary for such Zoning Officer to determine conformance with and provide for enforcement of this Ordinance.

One (1) copy of the plans shall be returned to the applicant by the Zoning Officer after he shall have marked such copies either as approved or disapproved and attested to same by his signature on such copy.

One (1) copy of all such plans shall be retained by the Zoning Officer for his permanent records.

Such approval and/or Building Permit shall be issued or refused within thirty (30) days from date of application. In case of refusal, the applicant shall be informed of his rights of appeal. The application for a permit shall be submitted in such form as the Zoning Officer may prescribe.

B. Expiration of Building Permit Building permit shall expire within ninety (90) days from date of issuance, if work described in any permit has not begun. If work described in any building permit has begun, said permit shall expire after one (1) year from date of issuance thereof. Application for extension of time for a building permit for delayed start of construction, or other reasons, shall require payment of one-half (1/2) of the original permit fee.

#### Section 1103 Certificate of Use and Occupancy

A Certificate of Use and Occupancy shall be required upon the completion of the work contemplated in a C or C-U District or non-residential construction in the R-Residential District. It shall be unlawful to use and/or occupy any structure, building, and/or land portions thereof in a C or C-U District in any manner until a Certificate of Use and Occupancy has been issued.

A. Form of Application The application for Certificate of Use and Occupancy shall be submitted in such form as the Zoning Officer may prescribe.

B. Issuance of Certificate of Use and Occupancy The Zoning Officer shall inspect any structure, building, sign, and/or land or portions thereof and shall determine the conformity therewith. If he is satisfied that the completed work is in conformity with this Ordinance and with the work listed in the Building Permit, he shall issue a Certificate of Use and Occupancy.

Certificate of Use and Occupancy shall be granted or refused in writing, within ten (10) days from the date of application.

#### Section 1104 Schedule of Fees

A. Each application for a building permit/certificate of use and occupancy shall be accompanied by cash, certified check or money order payable to Southmont Borough in accordance with the schedule of fees set by the Borough Council by resolutions.

B. Payment of permit/certificate fees does not obligate the Zoning Officer of Southmont Borough to grant a permit/certificate to the applicant. All permits/certificates issued must be in conformance with the provisions of this Ordinance; and in the event a permit is not issued, the application fee will be retained by Southmont Borough and shall be credited to the General Fund.

## Section 1105 Changes and Amendments

Whenever it is deemed desirable in order to meet the public needs, promote the convenience and welfare of the public, conform with good zoning practice and the intent and purpose of this Ordinance, the Borough may by ordinance, after report thereon by the Planning Commission and subject to the procedure provided in the section, amend, supplement, or change the regulations, district boundaries, or classifications of property, now or hereafter established by this Ordinance.

Any amendment, supplement, reclassification, modification or change may be initiated by any of the following:

1. The Planning Commission may initiate action by filing a written report to the Borough; or
2. The Borough may initiate action by filing a written request to the Planning Commission; or
3. The owner or owners of fifty-one percent (51%) or more of frontage of the property, between two intersecting streets, proposed to be changed, may submit a notarized petition to the Borough;

### A. Petition for Map Change, or Amendment

1. Form and Content Petitions for change of district boundaries or re-classification of districts as shown on the Official Zoning Map shall be on forms supplied by the Borough Planning Commission. A narrative description which: (1) defines the limits of the requested change by street name or recognizable physical feature; (2) states the specific reason for the requested change and (3) states the specific use, type of development and type of structure to be erected under proposed change. A map and/or preliminary site plans of the area to be rezoned shall also be submitted to the Borough and County Planning Commissions for reference and review by the Commissions.

2. Preliminary Review by the Borough Planning Commission After the facts presented and the data and information from the petition are reviewed and studied by the Borough Planning Commission, the

Commission shall, within fifteen (15) days after its regularly scheduled meeting, submit the petition with its preliminary recommendations to the Borough Council. The preliminary report by the Planning Commission is not intended to establish final approval by the Commission but rather to serve as a means of providing a format for action and review by the Borough Council.

B. Action by Borough Council Subsequent to the introduction of the Petition for Zoning Change and Preliminary Report by the Planning Commission to the Borough, the Council shall fix a time for a public hearing which hearing shall be at least thirty (30) days after the submission of the petition to the Borough and County Planning Commissions.

Notice of the time and place of the public hearing for consideration of the proposed amendment, supplement, or change, stating when and where a copy of the proposal will be available for public inspection, and briefly describing the change proposed, shall be given by the following method:

1. By publishing a notice of the proposal in at least one (1) newspaper of general circulation in the Borough once each week for two (2) successive weeks. The first publication shall not be more than thirty (30) days or less than seven (7) days from the date of the hearing.
2. Posting of a similar notice at the Borough Office.
3. If the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the Zoning Officer at points deemed sufficient along the perimeter of the tract to notify potentially interested citizens at least one week prior to the date of the hearing.

C. Conduct of Public Hearing The Borough Council or an examining officer appointed by the Borough Council shall be responsible for the conduct of the public hearing.

1. The purpose of the public hearing is to receive relevant facts, data and other material desirable and necessary for a decision on the petition for change.
2. The president or acting president of Council or the hearing officer shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

3. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
4. Formal rules of evidence shall not apply but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
5. The Council or the hearing officer, as the case may be, shall keep a record of the proceedings, either stenographical or by sound recording, and a transcript of the proceedings and copies of graphic or written material received in evidence shall be made available to any party at cost.

D. Final Report by Borough Planning Commission Within thirty (30) days following the public hearing, the Borough Planning Commission shall review all material, data, testimony and facts submitted for consideration in the petition for change. The Commission shall make a final report on the petition for change setting forth in detail reasons wherein public necessity, convenience and general welfare do or do not justify the proposed change and determining that the change is or is not in accord with the general objectives of the Borough and good zoning practices and shall forward its findings and recommendations to the Borough Council.

If the Planning Commission fails to file such a report within the specified time in the specified manner, it shall be presumed that the Planning Commission has approved the proposed amendment, supplement or change. In any event the recommendation of the Planning Commission shall be regarded as advisory in nature and shall not be binding on the Borough or other parties to the issue.

E. Final Action by the Borough Council The passage of an ordinance amending, supplementing or changing the regulations, district boundaries or classification of property, now or hereafter established by this Ordinance, shall require the affirmative vote of a majority of the members of the Borough Council.

Any ordinance amending, supplementing or changing the regulations, district boundaries or classifications of property hereinafter established by this Ordinance, if not passed by the Borough within ninety (90) days after the required public hearing, shall require a new public hearing as prescribed under paragraph C of this section.

F. Curative Amendments Landowners who desires to challenge on substantive grounds the validity of this Ordinance or Zoning Map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the Borough Council with a written request that his challenge and proposed amendment be heard and decided as provided in Paragraph C hereof. The Borough Council shall

commence a hearing thereon within sixty (60) days of the request. The curative amendment shall be referred to the Planning Commission and the Cambria County Planning Commission.

Notice of the curative amendment application shall be given in accordance with Section B hereof.

G. Fees Any person other than the Borough Council or Planning Commission requesting an amendment of the Zoning Ordinance shall pay a fee established by Borough Council by resolution at the time the request is filed to the Secretary of the Borough. At the conclusion of the proceedings the Borough may assess the applicant for costs incurred by the Borough in the conduct of the proceedings. All fees shall be paid to the Borough to be deposited in the General Fund. No part of the fees shall be refunded to the applicant.

#### Section 1106 Enforcement

A. Remedies In case any buildings or structures are erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used, in violation of this Ordinance or any building permit, the governing body, or with their approval the Zoning Officer, in addition to other remedies in this Ordinance and those listed in the Borough Code, may institute in the name of Southmont Borough any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business or use in or about such premises.

B. Penalties For any and every violation of the provisions of this Ordinance or the terms of building permit issued, the owner, general agent, or contractor of a building or premises where such violation has been committed or shall exist, and the owners, general agent, contractor, lessee or tenant of any part of a building or premises in which part such violation has been committed or shall exist, and the general agent, architect, builder, contractor or any other person who knowingly commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation shall exist, shall upon being found liable, therefore, in a civil enforcement proceeding commenced in the name of Southmont Borough, pay a judgment of not more than five hundred (\$500) plus all court costs, including reasonable attorney's fees incurred by Southmont Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of the violation by a district justice. If the defendant neither pays nor timely appeals the judgment, Southmont 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 the ordinance 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's fees collected for the violation of the Zoning Ordinance shall be paid over to Southmont Borough.

## ARTICLE XII            ZONING HEARING BOARD

### Section 1201    Creation and Organization

A.    Creation and Membership        There is hereby established a Zoning Hearing Board. The membership of the Board shall consist of five (5) residents of the municipality appointed by the Borough Council. The members of the Board shall be appointed for a five (5) year term. The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. The Borough Council may appoint one (1), two (2) or three (3) residents of the Borough to serve as alternate members of the Zoning Hearing Board. Members of the Board, and alternates, shall hold no other office in the Borough.

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

C.    Organization        The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board. The Board may take, alter and rescind rules and forms for its procedure, consistent with Ordinances of the borough and laws of the Commonwealth. The Board shall keep full official records of its procedure, consistent with ordinances of the borough and laws of the Commonwealth. The Board shall keep full public records of its business and shall submit a report of its activities to the Borough Council once a year.



D. Expenses Within the limits of funds appropriated by the Borough, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties, as may be fixed by the Borough.

## Section 1202 Powers and Duties

A. Powers Relative to Errors The Board shall hear and decide appeals filed with the Board in writing when it is alleged by any person aggrieved or by a proxy of the aggrieved that the Zoning Officer has failed to follow prescribed procedures or has misinterpreted or misapplied any provisions of a valid ordinance or map or any valid rule or regulation governing the action of the Zoning Officer.

B. Powers Relative to Variations Where it is alleged that the provisions of the Zoning Ordinance inflict unnecessary hardship upon the applicant, the Board may grant a variance if the following conditions are found relevant in a given case:

1. That there are unique physical circumstances or conditions including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the neighborhood or district in which the property is located.
2. That because of such physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provision of the Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. That such unnecessary hardship has not been created by the applicant.
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary.

C. Powers Relative to Special Exceptions Upon appeal, the Board shall be empowered to permit the following special exceptions in addition to those specifically set forth in other parts of the ordinance.

1. To permit the reconstruction of a district where the boundary line of a district divides a lot of record in single ownership.
2. To permit the reconstruction, alteration, extension or enlargement of a non-conforming building as provided in Articles 1004 and 1005 herein.
3. To interpret the provisions of the Zoning Ordinance where the street layout actually on the ground varies from the street layout as shown on the map fixing the several districts, which map is attached to and made a part of this Ordinance.
4. To vary parking regulations of the Zoning Ordinance whenever the character or use of the building is such as to make unnecessary the full provision of parking facilities or when such regulations would impose an unreasonable hardship upon the use of the lot as contrasted with merely granting an advantage or convenience.

The approval of any special exceptions is subject to the following general conditions:

1. Such use shall be one which is specifically authorized as a special exception use in the district in which it is to be located.
2. Such permits shall only be granted subject to any applicable conditions and safeguards required by this Ordinance.
3. Such permit may be granted subject to any additional conditions and safeguards as may be deemed by the Board to be advisable and appropriate.
4. Such use shall be found by the Board to be in harmony with the general purposes and intent of this Ordinance.
5. Such use shall not adversely affect the character of the District, nor the conservation of property values, nor the health and safety of residents or workers on adjacent properties and in the general neighborhood.
6. Such use shall be such appropriate size and so located and laid out in relation to its access streets that vehicular and pedestrian traffic to and

from such use will not create undue congestion or hazards prejudicial to the general neighborhood.

7. Such use shall not conflict with the direction of buildings development in accordance with any Comprehensive Plan or portion thereof which has been adopted by the Planning Commission.

In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as the Board may deem necessary. Further provisions relating to special Exceptions are as follows:

1. Church Requirements

- a. A Church may be permitted as a special exception in Residential and Community Unit Districts with the minimum requirements as hereinafter set forth.
- b. Height – As permitted in each District.
- c. Lot Area – The minimum lot area shall be one (1) acre.
- d. Yard Areas – As required in each District.
- e. Percentage of Lot Coverage – As permitted in each District.
- f. Site Plan – As required under Article IV, Section 405.
- g. Off-Street Parking Facilities – As required under Article VIII.

2. Day Care Center

- a. A Day Care Center may be permitted as a special exception in Community Unit and Commercial Districts with the minimum requirements as hereinafter set forth.
- b. Height – As permitted in each District.
- c. Lot Area – The minimum lot area shall be one (1) acre.
- d. Yard Areas – As required in each District.
- e. Percentage of Lot Coverage – As permitted in each District.
- f. Site Plan – As required under Article IV, Section 405.

g. Off-Street Parking Facilities – The general provision of Article VIII shall apply to all Day Care Centers. In addition there shall be one off-street parking space provided for each employee or full time volunteer and one safe passenger unloading space for each ten (10) children that the facility is licensed to accommodate.

h. Fence – The outdoor play area required by state licensing shall be surrounded by a safety fence or natural barrier, provided that any fence shall conform to the height limitations for fences in the Zoning District in which it is located.

i. Play Area Setback – No portion of the outside play area shall be less than thirty (30) feet from an existing occupied dwelling.

j. Hours – Outside play shall be limited to the hours between 8:00 a.m. and 7:00 p.m.

k. Signs – Any sign shall comply with the requirements in a Community Unit or Commercial District.

l. Department of Public Welfare Certification – The day care facilities hold an approved Pennsylvania Department of Public Welfare registration certificate or license, as appropriate, and meet all current DPW regulations including those standards governing adequate indoor space, accessible outdoor play space and any applicable state or local building and fire safety codes.

m. Smoke Detectors – All day care homes and facilities shall be fully protected by smoke detectors and fire extinguishers.

### 3. Family Day Care Home

a. A Family Day Care Home may be permitted as a special exception in a Residential District with the minimum requirements as hereinafter set forth.

b. Height – As permitted in District.

c. Lot Area – As permitted in District.

d. Yard Areas – As required in District.

e. Percentage of Lot Coverage – As permitted in each District.

f. Site Plan – As required under Article IV, Section 405.

g. Off-Street Parking Facilities – The general provisions of Article VIII shall apply to all Family Day Care Homes. In addition there shall be one off-street parking space provided for each employee or full time volunteer and one safe passenger unloading space for each ten (10) children that the facility is licensed to accommodate.

h. Fence – The outdoor play area required by state licensing shall be surrounded by a safety fence or natural barrier, provided that any fence shall conform to the height limitations for fences in the Zoning District in which it is located.

i. Hours – Outside play shall be limited to the hours between 8:00 a.m. and 7:00 p.m.

j. Signs – Any sign shall comply with the standards governing signs in a Residential District.

k. Floor Area – The amount of floor area devoted to such purposes shall not exceed thirty (30) percent of the total floor area of the dwelling and there shall be no change to the exterior of the building for the purpose of accommodating the day care use.

l. Department of Public Welfare Certification – The day care facility must hold an approved Pennsylvania Department of Public Welfare registration certificate or license, as appropriate, and meet all current DPW regulations including those standards governing adequate indoor space, accessible outdoor play space and any applicable state or local building and fire safety codes.

m. Smoke Detectors – All day care homes and facilities shall be fully protected by smoke detectors and fire extinguishers.

#### 4. Funeral Home Requirements

a. A Funeral Home may be permitted as a special exception in Residential and Community Unit Districts with the minimum requirements as hereinafter set forth.

b. Height – As permitted in District.

c. Lot Area – The minimum lot area shall be one (1) acre.

d. Yard Areas – As required in District

e. Percentage of Lot Coverage – As permitted in District.

- f. Site Plan – As required under Article IV, Section 405.
- g. Off-Street Parking Facilities – As required under Article VIII.
- h. Smoke Detectors – All Funeral Homes and facilities shall be fully protected by smoke detectors and fire extinguishers.

5. Home Occupation Requirements

- a. A Home Occupation may be permitted as a special exception in a Residential District with the minimum requirements as hereinafter set forth.
- b. Height – As permitted in District.
- c. Lot Area – As permitted in District.
- d. Yard Areas – As required in District.
- e. Percentage of Lot Coverage – As permitted in District.
- f. Site Plan – As required under Article IV, Section 405.
- g. Off-Street Parking Facilities – Space for four (4) vehicles and such other requirements under Article VIII.

6. Hospital

- a. A Hospital may be permitted as a special exception in a Community Unit and Commercial Districts with the minimum requirements as hereinafter set forth.
- b. Height – As permitted in each District.
- c. Lot Area – The minimum lot area shall be five (5) acres.
- d. Yard Areas – As required in each District
- e. Percentage of Lot Coverage – As permitted in each District
- f. Site Plan – As required under Article IV, Section 405.
- g. Off-Street Parking Facilities – As required under Article VIII.
- h. Smoke Detectors – All Hospitals and facilities shall be fully protected by smoke detectors and fire extinguishers.

7. Museum or other Philanthropic purpose Requirements

- a. A Museum or other philanthropic purpose may be permitted as a special exception in a Community Unit District with the minimum requirements as hereinafter set forth.
- b. Height – As permitted in District.
- c. Lot Area – The minimum lot area shall be five (5) acres.
- d. Yard Areas – As required in District.
- e. Percentage of Lot Coverage – As permitted in District
- f. Site Plan – As required under Article IV, Section 405.
- g. Off-Street Parking Facilities – As required under Article VIII.
- h. Smoke Detectors – All Museums or other philanthropic purposes and facilities shall be fully protected by smoke detectors and fire extinguishers.

8. Public, Private or Parochial School Requirements

- a. A public, private or parochial school may be permitted as a special exception in a Community Unit District with the minimum requirements as hereinafter set forth.
- b. Height – As permitted in District
- c. Lot Area – The minimum lot area shall be five (5) acres.
- d. Yard Areas – As required in District
- e. Percentage of Lot Coverage – As permitted in District.
- f. Site Plan – As required under Article IV, Section 405.
- g. Off-Street Parking Facilities – As required under Article VIII.
- h. Smoke Detectors – All public, private or parochial schools and facilities shall be fully protected by smoke detectors and fire extinguishers.

9. Service station, public garage or other motor vehicle services.

- a. Service station, public garage or other motor vehicle services may be permitted as a special exception in a Commercial District with the minimum requirements as hereinafter set forth.
- b. Height – As permitted in District.
- c. Lot Area – As required in District.
- d. Yard Areas – As required in District.
- e. Percentage of Lot Coverage – As permitted in District.
- f. Sit Plan – As required under Article IV, Section 405.
- g. Off-Street Parking Facilities – As required under Article VIII.
- h. Other Requirements
  - 1. No work shall be permitted outdoors.
  - 2. All pumps, underground storage tanks, lubricating and other devices shall not be located less than twenty-five (25) feet from any street right-of-way.
  - 3. All fuel, oil or similar substances shall be stored inside or under ground according to Pennsylvania Department of Environmental Resources and/or Environmental Protection Agency Rules and Regulations.
  - 4. All automobile parts, dismantled vehicles and similar articles shall be stored within a building.

D. Powers Relative to Zoning Challenges The Zoning Hearing Board shall exercise the privileges given to it under Section 910 of the Pennsylvania Municipalities Planning Code in reference to challenges to the validity of any provision of the Zoning Ordinance or the Zoning District Map.

E. Exercise of Powers In exercising the above powers, the Board may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken. In considering all appeals, the Board shall, before making any finding in a specific case, first determine the proposed change will not permit a non-permitted use for the district and will not impair an adequate supply of light and air to increase the danger of fire, or materially diminish or impair established property values within the surrounding area, or in



any other respect impair the public health, safety, comfort, morals, and welfare of Southmont Borough. Every change granted or denied by the Board shall be accompanied by a written finding of fact based on sworn testimony and evidence, specializing the reason for granting or denying the variation. The decision of the Board shall be made a part of any building permit in which variation is allowed.

F. Required Action The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to allow any variation of this Ordinance.

G. Appeal from Action of the Board Any party before the Board or any office or officer of the Borough or the Aggrieved may appeal to the Court of Common Pleas. All zoning appeals shall be filed with the Prothonotary not later than thirty (30) days after issuance of the notice of the decision or report of the Board. Appellant's procedure shall follow the requirements of the Pennsylvania Municipalities Planning Code, Act 247.

## Section 1203 Procedure

Variances and the special exceptions listed in this Ordinance and their accessory buildings and uses, may be permitted by the Zoning Hearing Board, in accordance with the procedures and requirements set forth in the Article.

A. Hearing Procedures The Board shall conduct hearings and make decisions in accordance with the following requirements:

1. Notice shall be given to the public by publishing a notice of the proposal in at least one (1) newspaper of general circulation in the Borough once each week for two (2) consecutive weeks. Such notice shall state the time and place of the hearing and the particular notice of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days nor less than fourteen (14) days from the date of the hearing. Notice shall also be given to the applicant, residents adjacent to the affected property, the zoning officer, such other persons as the governing body shall designate by resolution and to any person who has made timely request for the same, and by conspicuously posting the subject property and the municipal building. The Borough council may establish reasonable fees, based on cost, to be paid by the applicant and by persons requesting any notice not required by ordinance.
2. The hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision, or, where no

decision is called for, the findings shall be made by the Board, but the parties may waive decision or findings of the hearing officer as final.

3. The parties to the hearing shall be any person who is entitled to notice under clause (1) without special request therefore who has made timely appearance of record before the Board and any other person permitted to appear by the Board

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

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

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

7. The Board or the hearing officer, as the case may be, shall keep a record of the proceedings either stenographically or by sound recording, and a transcript of the proceedings and copies of graphic or written material received in evidence shall be made available to any party at cost.

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

9. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Board or hearing officer. When 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 act or any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and

recommendations available to the parties and the parties shall be entitled to make written recommendations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than forty-five (45) days after the decision of the hearing officer. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within sixty (60) days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the municipality shall give public notice of said decision within ten days in the same manner as provided in subsection (1) of this section. Nothing in the subsection shall prejudice the right of any party opposing the application to urge that such decision is erroneous.

10. 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. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision of findings and a statement of the place which the full decision or findings may be examined.

B. A fee set by the Borough Council by resolution shall be paid by the applicant at the time any appeal or request for a hearing is filed. At the conclusion of the hearing or proceeding the Borough may assess the applicant for additional costs incurred by the Zoning Hearing Board or the Borough in the conduct of the proceedings.

An additional fee may be charged by the Borough for the reproduction, clerical services, materials, supplies or other costs incurred by the Borough in supplying materials, exhibits or other documents requested by any individual.

All fees shall be paid to Southmont Borough to be deposited in the General Fund.

## ARTICLE XIII INTERPRETATION OF ORDINANCE

### Section 1301 Interpretation of Ordinance

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety, or the general welfare. Whenever the requirements of this Ordinance are at

variance with the requirements of any other lawfully adopted rules, regulations, or variances, the most restrictive, or that imposing the higher standards, shall govern. Any previous ordinance or part thereof which is in conflict herewith is hereby superseded.

#### ARTICLE XIV        SUBDIVISION

##### Section 1401    Subdivision

No subdivision of land within the Borough into lots or parcels of less than five (5) acres each shall be valid until the same has been submitted to and approved by the Borough Council. The Council shall take action on such subdivision submitted in not less than ninety (90) days after its submission, and the failure to so act shall be deemed an approval by the Borough Council. In determining action on land subdivision, the Council shall be guided by the provisions of the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended, which provisions are incorporated herein by reference.

#### ARTICLE XV        REPEALER

##### Section 1501    Repealer

It is the intention of the Council of Southmont Borough by the adoption of this Ordinance that it supersede Zoning Ordinance No. 309 of Southmont Borough as amended to the extent that the provisions of this Ordinance, including the zoning map, are constitutional, legally adopted and in full force and effect, and if this Ordinance is not constitutional, legally adopted and in full force and effect, then the previous Zoning Ordinance No. 309 of Southmont Borough as amended and the provisions therein relating to the subject matter shall be in full force and effect.

Passed finally this 17<sup>th</sup> day of July, 1989.