

ARTICLE I

PRELIMINARY PROVISIONS

SECTION 101 ENACTING CLAUSE

Be it ordained and enacted by the Council of the City of Johnstown assembled, and it is hereby ordained and enacted by the authority of the same, that from and after the passage and approval of this Ordinance the several classes of districts specified herein shall be established and the following regulations shall be in full force and effect.

SECTION 102 SHORT TITLE

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

SECTION 103 EFFECTIVE DATE

The effective date of this Ordinance shall be ten days after the advertisement of this Ordinance by the City under PA Municipalities Planning Code.

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 City existing on the effective date of this Ordinance, or in any regulation issued under the authority of such code or Ordinance, the provisions which established the higher standard for the protection of health, safety and welfare shall prevail.

SECTION 105 PURPOSE AND COMMUNITY DEVELOPMENT OBJECTIVES

The purpose of this Zoning Ordinance shall be designed:

1. To promote, protect and facilitate any or all of the following: the public health, safety, morals, and the general welfare; coordinated and practical community development and proper density of population; emergency management preparedness and operations; national defense facilities; the provisions of adequate light and air; access to incident solar energy; police protection; vehicle parking and loading space; transportation; water; sewage; schools; recreational facilities; public grounds; the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial use, and other public requirements; as well as preservation of forests, wetlands, aquifers and flood plains.
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.
3. To provide for the use of land within the City for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings and a reasonable range of multi-family dwellings in various arrangements, and mobile homes and mobile home parks.

4. To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and non-residential uses.
5. To facilitate the development of the City to fulfill the goals and objectives of the City of Johnstown updated Comprehensive Plan dated 1998, in developing the City primarily as a residential area with the preservation of natural beauty, and dispersed supplemental non-residential development.

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 of 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” included “arranged for,” “designed for,” “intended for,” “maintained for,” and/or “occupied for.”

SECTION 202 DEFINITIONS

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:

1. Children’s playhouse, garden house, or private greenhouse.
2. Civil Defense shelter serving not more than two (2) families.
3. Garage, shed, or building for domestic storage.
4. Storage or merchandise normally carried in stock on the same lot with any commercial use unless such storage is excluded by the district regulations.
5. Parking of boat trailers, and travel trailers and recreational vehicles not used as a dwelling on the premises, provided said equipment is parked within the set back lines required of an accessory structure.
6. Private garage
7. Small utility sheds not exceeding 48 square feet (not higher than 10 feet high) may be placed in the rear or side yards in any residential lot with a minimum set back of 4 feet from all property lines. Accessory buildings larger than 48 square feet must comply with all set backs.
8. Private swimming pools (see Section 802) appurtenant to an allowed use on the same lot when meeting the 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.

9. Off-street motor vehicle parking area; loading and unloading facility.

10. Fence (Section 417); signs (Article VII).

Alley: A service way providing a secondary public means of public access to abutting properties and not intended for general traffic circulation.

Alterations: As applied to a building or structure, a change or rearrangement in the structural parts 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.

Alterations, Structural: Any change in the supporting members of a building such as bearing walls, columns, beams, girders, or foundations.

Apartment: See Dwelling or Dwelling Unit

Apartment Building: See Dwelling or Dwelling Unit

Automotive Repair, Major: Means service of motor vehicles, as follows:

1. Spray painting;
2. Body, fender, clutch, transmission, differential, axle, spring and frame repairs;
3. Major overhauling of engines requiring removal there from of cylinder-head or crankcase pan;
4. Repairs of radiators requiring removal thereof; and
5. Complete recapping or retreading of tires.

Automotive Repair, Minor: Incidental repairs; replacement of parts; motor service to automobiles; state inspection; but not including any operation specified under Automotive Repairs, Major, above.

Basement: A story partly underground, but having at least one-half 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.

Basic Grade: "Basic Grade" means the average elevation of the proposed grade line of the ground at the front of the structure as shown on the construction plans, or in the case of a structure abutting the front property line, the elevation of the curb in front of the center of the structure, or if there is no curb, the elevation of the proposed grade line at the center of the front lot line. If no grade line is established, the actual existing grade of the traveled roadway shall apply.

Bed and Breakfast: A residential establishment where rooms are to be rented to transient guests on an overnight basis, including service of food by the facility owner.

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.

Block: A tract of land, a lot, a group of lots, bounded by streets, public parks, railroad rights-of-way, watercourses, and boundary lines of the City, unsubdivided land, other definite barriers, or combination of the above.

Board: The Zoning Hearing Board of the City of Johnstown.

Boarding House: Any *non* single-family or two-family residential dwelling unit structure occupied by unrelated persons for compensation, lodged on a temporary basis with the primary function of which is to provide room and board. Residents, whose relationships are incidental as opposed to an essential part of living, are not involved in the day-to-day operation and maintenance of the boarding house. The residents are *not* under the supervision, care, or rehabilitative services of the staff and tenancy is on a weekly or longer basis distinguished from transit housing.

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.

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 a separate building.

Building Area: The aggregate of the maximum horizontal cross-section areas of all buildings on a lot above the ground level, measured at the greatest outside dimensions, excluding cornices, eaves, gutters or chimneys projected not more than five (5) feet, one-story open porches projecting not more than twelve (12) feet, steps, and balconies.

Building or Setback 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 enclosed porches, but does not include walks, steps, paved areas, terraces, or open porches of less than ten feet.

1. **Front Set-Back Line:** The line nearest the front of and across a lot establishing minimum open space to be provided between the front line of buildings and structures and the front lot line.
2. **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.
3. **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.
4. **Width of Building Line:** The horizontal distance between side lot lines measured at the minimum prescribed front yard setback line as set forth in this Ordinance.

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.

Cellar: An unfinished story partly underground and having more than one-half of its clear height below the average level of the ground surrounding the structure. A cellar is not to be counted as a story in computing the number of stories of a structure or building unless it is used for business or dwelling purposes.

City Council: The governing body of the City of Johnstown.

Common Open Space: A parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of a development, not including streets, off-street parking and areas set aside for public facilities.

Coverage: The percentage of the lot area covered by the building area.

County: The County of Cambria, Pennsylvania.

Day Care Facility:

1. Day Care Center- A facility in which care is provided for seven (7) or more children, at any one time, where the childcare areas are not being used as a family residence.
2. Family Day Care Home- Any premises other than the child's own home, operated for profit or not for profit, in which child day care is provided at any one time for four, five, or six children who are not relatives of the caregiver.
3. Group Day Care Home- A facility in which care is provided for more than 6 but less than 13 children, at any one time, where the child care areas are being used as a family residence.

Note:

For purposes of this Ordinance, a child is a person under 16 years of age.

Disabled: The Fair Housing Act, Amendments of 1988, 42 U.S.C.S. SubSection 3602(h) defines persons with a disability to mean those individuals with mental or physical impairments that substantially limit one or more major life activities. The term mental or physical impairment may include conditions such as blindness, hearing impairments, mobility impairment, HIV infection, mental retardation, alcoholism, drug addiction, chronic fatigue, learning disability, head injury, and mental illness. The term major life activity may include seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working

Note:

The disability discrimination provisions of the Fair Housing Act do not extend to persons who claim to be disabled solely on the basis of having been adjudicated a juvenile delinquent, having a criminal record, or being a sex offender. Furthermore, the Fair Housing Act does not protect persons who currently use illegal drugs, persons who have been convicted of the manufacture or sale of illegal drugs, or persons with or without disabilities who present a direct threat to the persons or property of others.

District, Zoning: A section of the City 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.

Development Plan: The provisions for development, including a planned residential development, a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities. The phrase "provisions of the development plan" when used in this Ordinance shall mean the written and graphic materials referred to in this definition.

Developer: Any landowner, agent of such landowner or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development.

Decision: Final adjudication of any board or other body granted jurisdiction under this Ordinance to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the court of common pleas of the county and judicial district wherein the City lies.

Determination: Final action by an officer, body or agency charged with the administration of any land use ordinance or applications there under, except the following:

1. The governing body;
2. The zoning hearing board; or
3. The planning agency, only if and to the extent that planning agency is charged with final decision on preliminary or final plans under the Subdivision and Land Development Ordinance or planned residential development provisions.

Determination shall be appealable only to the boards designated as having jurisdiction for such appeal.

Driveway: A private or common right-of-way used by vehicles and pedestrians for an individual or multiple land, lot, or facility owner.

Dwelling: Any single, detached structure or portion thereof, designed to be occupied as a single residential living quarters by one (1) family, as defined by the City of Johnstown Zoning Ordinance, and which includes exclusive sleeping, cooking, eating, and sanitation facilities, which include;

1. Detached House: A dwelling unit occupying the whole of a freestanding residential structure.
2. Twin or Semi-Detached House: A residential structure occupied by two (2) dwelling units with a common wall.
3. Duplex: A residential structure divided vertically or horizontally into two (2) dwelling units.
4. Row House or Town House: A structure with two (2) or more party walls of three (3) or more units not having any horizontal divisions between units.
5. Multi-Family Building: A building containing three (3) or more dwelling units.
 - a. Apartment: One (1) or more rooms with a private bath and kitchen facilities comprising an independent, self-contained dwelling unit. Units can be separated horizontally and/or vertically from one (1) or more other units in a structure.
 - b. Conversion Apartment: Two (2) or more dwelling units installed into a structure which was originally built as a single family detached dwelling.
 - c. Apartment House or Multiple Dwelling Unit: A residential structure containing three (3) or more apartment units.
 - d. Garden Apartment: An apartment house or group of apartment houses not exceeding three (3) stories in height.
 - e. High-Rise Apartment: An apartment house exceeding three (3) stories in height.

Educational or Counseling Institution: Any organization which offers community or family-based counseling services available to the general public. Generally these institutions include but are not limited to;

1. Mental and behavioral health treatment facility;
2. Human services agency;
3. College and university treatment center; or
4. Residential treatment facility

Amended: Bill 1 of 2013 1/23/2013 Ord. No. 5119

Electronic Message Display Center/Screen: A sign, or portion of a sign, capable of displaying words, symbols, figures, or images that can be electronically or mechanically changed by remote or automatic means and which directs attention to a business, activity, product, commodity, service, entertainment, or communication related to the site or building which it is located and/or tenant specific. For the purpose of this Ordinance the following shall not be considered to be:

1. Signs utilized by the police department, other law enforcement personnel, and/or emergency service providers; or
2. Signs that include only the date, time, and/or temperature provided that the remainder of the sign remains static at all times

Engineer: A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for a municipality, planning agency, or joint planning commission.

Family: A single person or two (2) or more persons related by blood, marriage, adoption, guardianship, or any other duly-authorized custodial relationship; living together as a single cohesive and nonprofit housekeeping unit which shares common living, sleeping, cooking, eating, and sanitation facilities; or

1. Two (2) unrelated people and any children related to either of them;
2. Any group of three (3) unrelated people; or
3. A group of not more than five (5) unrelated people whom can be classified as “disabled” living together as a single cohesive nonprofit housekeeping unit which shares common facilities as considered reasonably appropriate for a similar number persons related by blood, marriage, adoption, or guardianship.

Farming or Farm Use: The use of land for raising and harvesting crops or for the feeding, breeding and management of livestock or for dairying or any other agricultural or horticultural use including raising and harvesting timber and timber products or tree farming or any combination thereof and includes the preparation of the products raised therein for man’s use and disposal by marketing or otherwise. It includes the construction and use of dwellings and other buildings customarily provided in conjunction with the farm use.

Fence: A structure which permanently or temporarily serves as a barrier to restrict travel between properties or portions of properties or between street or public right-of-way and a property.

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 (7-1/2) feet or more, interior balconies and mezzanines, enclosed porches, accessory uses 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.

For the purpose of determining minimum floor area as applied to a dwelling unit, floor area shall mean the habitable living area of the dwelling as measured by exterior dimensions and shall not include attached garages, unfinished basements, laundry or furnace rooms or carports. Neither are porches included unless completely enclosed and finished.

Foundation: Permanent base or substructure of a building that is totally or more than one half of its clear height below the average level of the surrounding ground. It is the basic support of the building or structure.

Garage: A building or portion thereof used for the storage and/or service of motor vehicles. Specifically:

1. “Minor garage” means a detached accessory building, or portion of a main building, for the parking or temporary storage of automobiles belonging to occupants of the premises.
2. “Community garage” means one garage, or a group of detached garages arranged in a row or surrounding a common means of access, one story in height, and used exclusively for the parking of automobiles by residents, customers or persons engaged in the conduct of establishments in the immediate vicinity of its location (including a commercial parking garage).

Garage, Private: An accessory building, 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.

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. (Does not include marshalling yard or storage or repair of earth-moving or construction vehicles.)

Garden Apartment: See Dwelling or Dwelling Unit

Governing Body: The City Council of the City of Johnstown, Pennsylvania.

Group Home: A residential living arrangement for a group of more than three (3) “disabled” people not considered a “family” by the City of Johnstown Zoning Ordinance. The said residents, who either by choice, referral, and/or governmental policy cannot live independently by themselves, requiring a setting of supportive living arrangements, assistance, monitoring, or supervision related to their individual situations. Residents, not typically required by law to be actively receiving therapy and counseling services, can receive either by available staff members or independently of the Group Home.

Habitable Living Area: The floor area of a building or structure which is furnished to the extent that it is customarily occupied by residents or users of the buildings or structure.

Halfway House: A temporary residential living arrangement for more than three (3) persons not considered a “family” by the City of Johnstown Zoning Ordinance living in a structured, supervised setting and in need of supportive living arrangements in order to readjust to non-institutionalized living. Persons living in Halfway House must be actively receiving therapy and counseling services from support

staff which is present when residents are present. Residency at a Halfway House is generally limited to a specified number of weeks or months.

Health Authority: The State Department of Health or the Health Inspector of the City of Johnstown.

Hearing: An administrative proceeding conducted by a board pursuant to Section 909.1 of the Pennsylvania Municipal Planning Code.

Home Based Occupation- General Information:

1. All home based occupations shall submit a description of the business for review by the Zoning Officer to determine if a Zoning Hearing Board application is required.
2. In any case where the business operator is different from the property owner, the approval of the property owner shall be provided in writing to either the Zoning Officer or the Zoning Hearing Board.

Home-Based Occupation - Major Impact: An occupation meeting all of the following:

1. It is conducted in a dwelling unit;
2. It is clearly incidental, accessory and subordinate to the dwelling unit's residential use;
3. It does not meet one or more of the components of the definition of a "Home Occupation-Minor Impact".

Home-Based Occupation - Minor Impact: An occupation meeting all of the following:

1. It is clearly incidental, accessory and subordinate to the dwelling unit's residential use;
2. It is conducted entirely within the existing dwelling unit with no expansion in height or footprint;
3. It ships or receives goods, materials, supplies, and items of every kind to/from the dwelling via a passenger vehicle owned by a resident of the dwelling unit or a parcel courier making deliveries or pick-ups no more than once per day;
4. Employs only residents of the dwelling unit in which it is located;
5. It requires the use of equipment or appliances customarily associated with residential and office uses;
6. It requires no customers to visit the dwelling unit for business purposes;
7. It places no evidence of the non-residential use of the dwelling other than one (1) non-illuminated sign no larger than 216 square inches;
8. It conducts no retail sales directly to customers on premises other than by telephone or Internet;
9. It requires the use of less than twenty-five percent (25%) of the ground floor area of the principal residential unit (excluding garages) in which it is located for business purposes including storage;
10. It has no exterior displays of goods which is visible from a public right-of-way;

11. It requires no outside and/or unenclosed storage of goods or materials;
12. It is not characterized as a kennel, clinic, restaurant, hospital, vehicle repair, funeral home, drinking establishment or sexually oriented business.
13. It creates the need for no additional off-street parking other than what is typically required for residential units; and
14. It creates no noise, vibration, glare, fumes, audio/visual and/or electrical interference, and odors.

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.

Hotel: A building in which temporary lodging is offered to the public or transients for compensation and in which ingress and egress to and from rooms is made from an inside lobby or office which is supervised by a person in charge at all hours. Access to on site parking, restaurants, newsstands, and other commercial facilities may be provided for the occupants and only incidentally to the public.

Hotel, Motor: A building in which lodging is provided and offered to the transient public for compensation and in which egress and ingress to and from rooms may be made either directly from the exterior or through an inside lobby or office supervised by a person in charge at all times.

Institutional House: A public or private organized establishment in which children, elderly, or adults may receive services in order to maintain daily routines. Services may or may not include medical or educational services. The classification shall not include: Daycare Facilities, Nursery Schools, or Penal or Reformatory Institutions.

Junk Yard: An area set aside for the accumulation of abandoned vehicles, appliances, or other used or scrap materials for the express purpose of resale.

Land Use Ordinance: Any ordinance or map adopted pursuant to the authority granted in Articles IV, V, VI, and VII of the Pennsylvania Municipalities Planning Code.

Landscaping: To improve, arrange, ornament, or modify the effects of natural scenery over a tract of land through development and decorative planting of gardens and grounds.

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

Livestock: Any animal such as cattle, pigs, horses, chickens, etc. or any animal to be deemed farm like other than common domesticated animals such as dogs, cats, and domesticated birds, etc.

Loading Space: A space within the main building or on the same lot therewith providing for the standing, loading, or unloading of vehicles.

Lodger: A transient renter living in a housing unit occupied by the owner or tenant of the unit, whose meals may be included in the rent.

Lot: A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

Lot Area: Total horizontal area included within lot lines excluding space within any street or right-of-way, but including the area of any easement.

Lot, Corner: A lot at the junction of two or more intersecting streets and having frontage on two or more such streets.

Lot, Depth of: The mean horizontal distance between the front line and the rear lot line, measured midway between the side lot lines.

Lot, Interior: A lot other than a corner lot or a through lot.

Lot, Recorded: Any lot which individually, or a part of a subdivision, has been recorded in the Office of the County Recorder of Deeds.

Lot, Through: A lot having frontage on two parallel or approximately parallel streets and which is not a corner lot.

Lot Width: The dimension of a lot, measured between the side lot lines on the building line.

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.

Major Excavating, Grading or Filling: Major excavating, grading or filling means any operation, other than in connection with a foundation for a structure, involving:

1. Strip or other mining of coal or other minerals, excavation of sand or rock and the crushing of rock, sanitary and other frills, drilling for oil or gas, recovery of metal or natural resources and similar operations;
2. Material alteration of the ground surface so as to affect streets, recreation sites and other public facilities, or so as to physically affect private property within 1,000 feet of the operation;
3. A volume of earth movement exceeding 16,000 cubic yards; or
4. A change in ground elevation exceeding twenty feet.

Mediation: A voluntary negotiating process in which parties in a dispute mutually select a neutral mediator to assist them in jointly exploring and settling their differences, culminating in a written agreement which the parties themselves create and consider acceptable.

Membership Club: Means a chartered, non-profit organization, the primary purpose of which is the advancement of its members or of the community in educational, fraternal, cultural or civic pursuits and activities.

Mobile Home: A transportable, single-family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for 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.

Mobile Home Lot: A parcel of land in a mobile home park for the placement of a single mobile home and the exclusive use of its occupants.

Mobile Home Park: A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes. The property may be owned by an individual, a firm, trust, partnership, public or private association or corporation. Recreational vehicles shall not be included.

Modular Home: A single-family dwelling designed for transportation after fabrication in one or more units, and arriving at a site where it is assembled on a permanent foundation and connected to utilities.

Motel: See Hotel, Motor herein.

Municipality: The City of Johnstown, Pennsylvania.

Multi-Use Residential Dwelling Unit: Any building or structure designed or altered to be occupied by retail or commercial space on the ground floor with residential living quarters on any number of floors above. Each separate dwelling unit shall include exclusive sleeping, cooking, eating, and sanitation facilities.

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.

Municipal Engineer: A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for a municipality, planning agency, or joint planning commission.

Non-conforming Lot: A lot the area or dimension of which was lawful prior to the adoption or amendment of a Zoning Ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

Non-conforming Structure: A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in a Zoning Ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such Ordinance or amendment or prior to the application of such Ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, non-conforming signs.

Non-conforming Use: A use, whether of land or of structure, which does not comply with the applicable use provisions in a Zoning Ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such Ordinance or amendment, or prior to the application of such Ordinance or amendment to its location by reason of annexation.

Nursery School: A premise other than the child's own home which shall provide daytime care or instruction to two or more children of preschool age.

Official Map: A map adopted by ordinance pursuant to Article IV of the PA Municipalities Planning Code.

Office Structure: A structure designed and used only for office and administrative activities and shall not include those activities of a commercial nature.

Park Street: A private way, which affords principal means of access to individual mobile home lots or auxiliary buildings.

Parking Area: An open space, other than a street or alley, used exclusively for the parking of automobiles. Specifically:

1. “Minor parking area” means a parking area which is an accessory use on the same zoning lot.
2. “Community parking area” means a parking area used exclusively by the residents, customers or persons engaged in the conduct of establishments in the immediate vicinity of its location (including a commercial parking garage).

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.

Parking Space: An off-street space available for the 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 and giving access thereto and having direct access to a street or alley.

Planned Residential Development: An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, or combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling, or use, density, or intensity, lot coverage and required open space to the regulations established in any one district created, from time to time, under the provisions of a Municipal Zoning Ordinance.

Planning Agency: The Planning Commission of the City of Johnstown.

Plat: The map or plan of a subdivision or land development, whether preliminary or final.

Public Grounds: Includes:

1. Parks, playgrounds, trails, paths and other recreational areas and other public areas;
2. Sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities; and
3. Publicly owned or operated scenic and historic sites.

Public Hearing: A formal meeting held pursuant to public notice by the governing body, or planning agency, intended to inform and obtain public comment, prior to taking action.

Public Meeting: A forum held pursuant to notice under the act of July 3, 1986 (P.L. 388, No. 5086 84), known as the ‘Sunshine Act.’”

Public Notice: Notice published once each week for two successive weeks in a newspaper of general circulation in the Municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.

Recreation Vehicle: A vehicle of any size which is designed as a temporary dwelling for travel, recreational and vacation uses, and which is self-propelled or is designed to be towed or carried by another vehicle.

Report: Any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie there from. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to any proceeding upon request, and copies thereof shall be provided at cost of reproduction.

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.

Service Building: A structure housing toilet, lavatory and such other facilities as may be required by this Ordinance.

Service Station: A building(s), premises or portions thereof which are used, arranged, designed, 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.

Sign: Any surface, fabric, display of merchandise, or vehicle 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.

Special Exception: A land use or structure which is specifically permitted in a zoning district but is subject to meeting expressed standards and/or criteria as written in Article IX of this Ordinance.

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.

Street: Includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct and any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private.

Structure: Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

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

Surface Mining: Any extraction of any mineral which involves removal of the surface of the earth or exposure of the mineral or substance of the earth to wind, rain or sun or other elements of nature for sale or commercial purposes.

Tourist Home: An establishment in a private dwelling that supplies temporary accommodations to overnight guests for a fee.

Townhouse: Single-family attached dwelling unit with walls, each dwelling unit is a complete entity with its own utility connections.

Transcript: A formal transcript of a meeting generated by a contracted third party. Copies of such documents shall be sought from the original source.

Travel Trailer: Any trailer usually drawn by a passenger automobile, used for occasional transport of personal effects.

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.

Unit Group Building: Means two or more main buildings grouped upon a single zoning lot, such as a shopping center, school, church, hospital, institutional or industrial plant.

Variance: Permission granted by the Zoning Hearing Board, following a hearing that has been properly advertised for a zoning adjustment.

Water Survey: An inventory of the source, quantity, yield and use of groundwater and surface-water resources within a Municipality.

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

Yard, Front: A space extending across the full width of the lot between any permitted building or structure and the front lot line, and measured perpendicular to the building/structure at the closest point to the front lot line.

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 and steps, walls, 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.

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.

Zoning Officer: The administrative officer appointed by elected officials of the City to administer the Zoning Ordinance in accordance to its literal terms and requires the officer to identify and register non-conforming uses and structures, receive applications, inspect premises, and issue permits. Any disagreement with the Zoning Officer's literal interpretation can be settled judicially through the appeals process. The Zoning Administrator may also be referred to as the Zoning Officer.

Zoning Approval: A statement issued by and signed by the Zoning Officer authorizing the use or construction of a structure and indicating on its face that the proposed use or structure complies with the Zoning Ordinance or with a decision and order of the Zoning Hearing Board or a court of competent jurisdiction rendered in connection with an application relative to use of the premises involved. No approval shall be issued for any use or construction unless the applicant shall submit written proof that the designated authorities have granted approval of required sanitary sewage and water facilities.

Zoning Hearing Board: A multiple member board, appointed by elected officials of the City, to hear and render final adjudications under its jurisdiction as stipulated in the Pennsylvania Municipalities Planning Code, Section 909.1(a) (1) to (9).

ARTICLE III

ESTABLISHMENT OF DISTRICTS

SECTION 301 DISTRICT CLASSIFICATIONS

The City is hereby divided into eight types of districts and fourteen zoning district classifications for the purpose of applying the provisions of this Zoning Code. These districts are:

<u>Type</u>		<u>Full Name</u>	<u>Short Name</u>	<u>Page</u>
S	S	Conservancy District	S District	26
R	R1	One-Family Residence District	R1 District	28
	R2	Two-Family Residence District	R2 District	30
	R3	Multiple-Family Residence District	R3 District	31
T	TN	Traditional Neighborhood District	TND District	33
H	H	Health Service and Medical Center District	H District	36
C	C1	Neighborhood Shopping District	C1 District	38
	C2	Community Business District	C2 District	41
	C3	Central Business District	C3 District	44
M	M1	Light Industrial District	M1 District	47
	M2	Industrial, Service and Distribution District	M2 District	50
	M3	Heavy Industrial District	M3 District	53
F	FF	Flood Plain District	FF District	56
A	AO	Artist Overlay District	AO District	59

The term R District, C District, or M District, whenever used herein, is deemed to mean a type of district including every district classification having the same initial letter in the first part of the name, regardless of the numeral that follows. For example, the term C District shall include the C1, C2, and C3 Districts.

Among the district types, each type is recognized herein as most protected within itself and is subject to lessening of such protection if uses of any of the other types are introduced therein. Among the districts of any one of these types, a district designated by a lower number is recognized as more protected than a district designated by a higher number.

SECTION 302 ZONING DISTRICT MAP

The boundaries of the districts listed in Section 301 are designated on the Zoning District Map, which, together with all the information recorded thereon, is hereby made a part of this Zoning Code.

SECTION 303 INTERPRETATIONS OF DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundaries of the various districts, as shown on the Zoning District Map, the following rules shall apply:

1. Where the indicated boundaries on the Zoning District Map are approximately lot lines or property lines, such lines shall be construed to be the boundaries of a district, unless otherwise indicated.
2. Where the indicated boundaries on the Zoning District map are approximately public rights-of-way, the centerlines of such public rights-of-way shall be construed to be the boundaries.
3. Where the indicated boundaries are dimensioned on the zoning District map, such dimensions shall determine the boundaries.
4. Where the indicated boundaries are not approximately lot or property lines or public rights-of-way, and where such boundaries are not dimensioned, the boundaries shall be determined by scaling on the Zoning District Map.

ARTICLE IV

GENERAL PROVISIONS

SECTION 401 CONFORMANCE AND PERMITS

No building or land shall, after effective date of this Ordinance, except for existing lawful non-conforming uses, be used or occupied and no building or part thereof shall be erected, moved, 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 (sewage enforcement, building, occupancy, etc.) and licenses required by all laws and ordinances.

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 USES AND STRUCTURES ON ZONING LOTS; NUMBER OF STRUCTURES PER LOT

Except where otherwise provided herein, after the effective date of this Ordinance, every use of land and every structure shall be on a zoning lot, and not more than one main structure shall occupy such zoning lot, unless a part of a permitted unit group development.

SECTION 404 CLASSIFICATION OF ANNEXED LAND

All land annexed to the City after the effective date of this Ordinance shall be classified automatically as an S Conservancy District, except land classified under a zoning ordinance of the former political subdivision. In the latter case, the prior zoning classification shall apply until changed by an amending ordinance. The Planning Commission shall recommend to Council appropriate zoning for the annexed area within not more than six months after the effective date of such an annexation, and until Council has adopted a zoning plan, the provision of Sections 1101 and 1102 relative to non-conformity termination shall not apply to such annexed area.

SECTION 405 EXEMPTION FOR PUBLIC UTILITIES

This Zoning Code shall not apply to any existing or proposed structure or use, or extension thereof, used or to be used by a public utility corporation, if, upon petition of the corporation, the State Public Utility commission, after a public hearing, decides that the present or proposed situation of the structure in question is reasonably necessary for the welfare of the public.

SECTION 406 LOCATION OF USES INVOLVING MOTOR VEHICLES

Any use involving, as a principal part of the conduct of business, the use or servicing of motor vehicles, such as an automobile service station or sales area, a community or major garage or parking area, distribution plant or freighting or trucking terminal, shall be so located that no vehicular entrance or exit shall be closer than 150 feet to an entrance or exit of any elementary, secondary, or vocational school or playground, church or public library located on the same side of the street or way, and not separated there from by an intervening street or way. Similarly, no entrance or exit to any elementary, secondary, or vocational school or playground, church or public library shall be located closer than 150 feet to a vehicular entrance or exit of such use as noted in this section.

SECTION 407 LODGERS

Lodgers, not exceeding two (2), in addition to one (1) family, shall be permitted in each dwelling unit of a One or Two-Family Dwelling.

SECTION 408 UNSAFE STRUCTURES; SEWER AND WATER CONNECTIONS

No structure shall be used or occupied as a dwelling, boarding house or rooming house if such structure is in need of major structural repairs or is unsafe or unsanitary, or if the premises do not have connection within the City sewerage system or alternative sanitary sewage and public water supply facilities approved by the local public health authorities, and/or the PA Department of Environmental Protection.

SECTION 409 USES REQUIRING SITE PLAN AND/OR SITE PLAN APPROVAL

1. All Uses of Property for One and Two-Family Dwellings

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

- a. The size and shape of the property including property line dimensions, corners, easements, right-of-ways, and names of adjacent properties.
- b. The size, shape, height, area, and location of all principal and accessory buildings. Dimensions from all buildings to adjacent property lines shall be indicated.

Activities excluded from Site Plan review include:

- c. Construction of accessory structures in conformance with zoning and building code requirements;
- d. Additions and improvements to conforming principal and accessory structures in all residential districts, and additions and improvements to all other structures in all districts not involving a change in land use; and
- e. Projects involving the construction of fences, walls, private swimming pools and signs in conformance with the Comprehensive Plan, Future Land Use Map and/or Zoning requirements of the City.

2. Use of Property Other Than One and Two Family Dwellings

In addition to the above requirements, uses of all property other than One and Two-Family dwellings in R-3, TN, C, H, and M districts, shall in addition to conforming to any and all regulations pertaining thereto that are specifically set forth in this ordinance, be in accordance with a site plan approved by the Planning Commission. A Site Plan and Site Plan approval shall be required for the construction of all conforming principal use structures in commercial, industrial and public/semi-public zoning districts; the construction, expansion and/or renovation of structures in all districts involving a change in land use from that identified in the most recent Comprehensive Plan Existing Land Use Map; and construction and renovation proposals involving additional utility and/or infrastructure requirements.

In addition, all public or semi-public buildings, all subdivision plans, and special exceptions shall be in accordance with a site plan approved by the Planning Commission and Zoning Hearing

Board, as is necessary in cases where exceptions are granted. The site plan shall show in addition to any specific requirements set forth in the district regulations herein, the following:

- a. The location of principal and accessory buildings.
- b. Traffic circulation features within the site.
- c. The location of vehicular access onto the site, or State Highway Occupancy Permit if onto a state road.
- d. Utilities connections: water, electric (show voltage), sewage, gas, phone.
- e. The height and bulk of structures.
- f. The provisions of off-street parking and loading facilities.
- g. The provision of open space.
- h. Drainage Structures: culverts, catch basins, inlets, ditches, drain tile.
- i. Drainage flow, catch basin size, and location of any storm sewers and discharge points from the site.
- j. The landscaping, paving, fencing, walls and signs on the site.
- k. Location, size, and content of all underground and above ground storage tanks.
- l. Provide floor plans for all structures to be developed as part of this project.
- m. Such additional information as may be required by the City.

In considering any plan hereunder, the Planning Commission will endeavor to assure safety and convenience of traffic movement, harmonious and beneficial relationship of buildings and uses on the site as well as to contiguous properties and overall development in a manner not detrimental to the public at large, before giving a recommendation to the Zoning Hearing Board (where exceptions are necessary)

SECTION 410 TIME LIMIT FOR CONSIDERATION OF SITE PLANS

Where approval of a site plan by the Planning Commission is prerequisite to the issuance of a permit, action shall be taken by the Commission, either approving or disapproving, within sixty-five days from the date of a permit application. Failure of the Commission to so act shall be considered approval of the plan as submitted.

SECTION 411 NOTICE TO PROPERTY OWNERS

Wherever in this Zoning Code there is a requirement for the notification of property owners, the provisions shall apply irrespective of Municipal boundary lines.

SECTION 412 HEIGHT OF STRUCTURES; EXCEPTIONS

1. The permitted heights of structures shall be measured from the basic grade. On a corner lot, the basic grade shall be the mean of the basic grades of both frontages. On a through lot, the basic

grade of each frontage shall control the permitted height of the structure to one-half the depth of the zoning lot.

2. The following structures or portions thereof may extend above the height limit of the district in which the same are located, provided that every portion of such structures above the height limit is at least as many feet distant from bordering or opposite properties as that portion of the structure is in height:
 - a. Church towers and spires;
 - b. Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilation fans or similar equipment required to operate and maintain the building; or
 - c. Fire or parapet walls, skylights, towers, steeples, flag poles, chimneys, smokestacks, radio and television towers, water tanks, silos or similar structures.

SECTION 413 LOT AREA; FRONT YARD REQUIREMENTS

1. Any portion of a lot once used as a yard, or as lot area in compliance with the area requirements of the district regulations of this Zoning Code, shall not be counted again as required yard or lot area for another structure.
2. Where a zoning lot:
 - a. Abuts the side lot line of only one lot occupied by a main building less than twenty-five feet from the abutting side lot line, the front yard requirement of such zoning lot may be the average depth of the front yard of the abutting occupied lot and the depth required in the district; and
 - b. Abuts, on both sides, lots occupied by main buildings less than twenty-five feet from the abutting side lot lines, the front yard requirement of such zoning lot may be the average depth of the front yards of the abutting occupied lots.

SECTION 414 UTILITY FIXTURES AND DECORATIONS

Minor utility fixtures and articles of decoration around a main building may be located in any required yard.

SECTION 415 PORCHES

An unenclosed porch, not more than one story or fifteen feet in height and twelve feet in depth, may be erected in the front or rear yard, provided that no portion of such porch shall be closer to a side lot line than the required width of the side yard.

SECTION 416 PROJECTIONS

A buttress, chimney, cornice, pier or pilaster, projecting not more than eighteen inches from the wall of the building, may project into a required yard.

SECTION 417 WALLS AND FENCES

A screening wall or fence and/or a solid fence or enclosure of not more than six (6) feet in height may be erected in any required side or rear yard or within the buildable area. A screening wall or fence may be

erected up to the property line, but no part shall extend into or go over such property line. Fences in the front yard are limited to four (4) feet, unless changed by a special exception.

SECTION 418 UTILITY SERVICE LINES AND RAILROAD TRACKS

Public service lines for the transportation, distribution, and control of water, electricity, gas, oil, steam, and telegraph and telephone communications, or railroad trackage, and supporting member other than buildings, shall not be required to be located on an individual zoning lot, nor be held to reduce the required yard dimensions for other structures on a zoning lot.

SECTION 419 LANDSCAPE FEATURES

Landscape features such as trees, shrubs, flowers, soil cultivation, plants and plantings, shall be permitted in any required yard, provided that when they are in a front yard, they do not constitute a hedge effect more than three and one-half feet in height above the ground level adjacent thereto.

SECTION 420 SCREENING IN BUSINESS AND INDUSTRIAL DISTRICTS

In a C or M District, when a side or rear yard abuts property in an R or H District:

1. It shall be screened from such R. or H District by a masonry wall, solid fence or open fence with screen planting five feet high extending along the property line adjoining the abutting R or H District, but not closer to a street than the buildable area of the lot.
2. The abutting side or rear yard shall be planted and maintained with shrubbery so as to provide a visual screen approximately five feet high between the concerned C or M District and the abutting property.

SECTION 421 GASOLINE PUMPS

Gasoline pumps in connection with an automobile service station shall be permitted in any required yard abutting a street, not closer to the street line than fifteen feet.

SECTION 422 LOTS OF RECORD NOT MEETING LOT AREA REQUIREMENTS

A one-family dwelling may be erected upon a lot on an approved plan of record, which lot has insufficient area and dimensions to meet the lot area and setback requirements, provided said lot, on the effective date of this Ordinance, was held lawfully under separate ownership from the adjoining lots, and provided that all other provisions of this Ordinance can be met.

ARTICLE V

PROVISIONS GOVERNING ZONING DISTRICTS

SECTION 501 S CONSERVANCY DISTRICT

The S Conservancy District is intended to encourage the conservation of steep hillside land within the City, where the economics of building and supplying public services and facilities argue against the more usual type of building development, and where only huge expenditures for grading the land will permit a change of zone and make building development feasible; to prohibit commercial, industrial, and residential uses of land, except under special conditions relating to public service; and to discourage any use when its character or location within the District would create requirements and costs for public service, such as police and fire protection, water supply and sewerage, substantially in excess of such requirements and costs in areas of less steep topography.

1. PERMITTED USES

In an S Conservancy District, land and structures may be used, and structures may be erected, altered, enlarged and maintained, for the following uses only:

- a. General gardening and growing of trees and nursery stock, not including roadside displays or commercial signs;
- a. One-family dwellings, when located on a street improved to City standards, provided that connection with a public sewer is feasible and the cost of off-site connections to such sewer and installation of streets and curbing is borne by the developer, or other sewage disposal facilities in conformity with the requirements of the local public health authorities are installed;
- b. Recreation areas, when operated by a non-profit organization;
- c. Reforestation and public reservation, not involving sales or advertising on the premises;
- d. The following conditional uses. It is not the intention that the S District is contemplated for the following uses, but with a realization that certain parts of such District may be developed to meet health and safety requirements without interfering with other features of zoning the following conditional uses, as prescribed in Article X, may be accepted under circumstances prescribed thereunder:
 1. Cemeteries, including crematoriums;
 2. Government uses or structures; and
 3. Public utility corporation buildings, structures, facilities and installations.
- e. Special exceptions permitted by the Zoning Hearing Board, as prescribed in Article IX, including:
 1. Gas regulator stations; electric substations; greenhouses; horticultural nurseries; or community garages or community parking areas, on a substandard lot of record;
 2. Temporary structures or uses in connection with an authorized use; and
 3. Home occupations.

- f. Accessory uses or structures; and
- g. Signs as prescribed in Article VII.

2. OTHER PROVISIONS

Provisions regarding height, yard setbacks, lot area, and general rules are included in; Appendix A-Schedule of Heights and Area Regulations.

SECTION 502 R1 ONE-FAMILY RESIDENCE DISTRICT

The R1 One-Family Residence District is composed of certain quiet, low-density residential areas of the City, plus certain open areas where similar residential development appears likely to occur. The regulations for this District are designed to stabilize and protect the essential characteristics of the District; to protect the amenities of certain areas of the City where the pattern has already been established with single-family development on relatively large lots; to promote and encourage a suitable environment for family life; and to prohibit all activities of a commercial nature, except home offices of doctors or ministers and certain home occupations controlled by specific limitations governing the size and extent of such non-residential activities. To these ends, development is limited to a relatively low concentration with relatively large lot size, and permitted uses are limited basically to single-family dwellings providing homes for residents, plus certain additional uses such as schools, parks, churches, and public facilities which serve the residents of the District.

1. PERMITTED USES

In a R1 One-Family Residence District, land and structures may be used, and structures may be erected, altered, enlarged and maintained, for the following uses only:

- a. One-family dwellings;
- b. General gardening and growing of trees and nursery stock, not including roadside displays or commercial signs;
- b. Publicly-owned recreation areas;
- c. Home-Based Occupation-Minor Impact;
- d. Conditional uses, as prescribed in Article X, including:
 1. Educational, philanthropic, or religious institutions or unit group buildings thereof;
 2. Government uses or structures;
 3. Non-profit recreation areas;
 4. Public utility corporation buildings, structures, facilities and installations; and
 5. Major excavating, grading or filling, except for strip or other mining of coal or other minerals, excavating of sand or rock and the crushing of rock, sanitary and other fills, drilling for gas or oil, recovery of metal or natural resources and similar operations;
- e. Special exceptions permitted by the Zoning Hearing Board, as prescribed in Article IX, including:
 1. Community garages or community parking areas;
 2. One-Family dwellings on a recorded lot insufficient in size to meet the area requirements;
 3. One-Family dwellings without the required automobile parking space;
 4. Temporary structures or uses in connection with an authorized use;
 5. Home-Based Occupation – Major Impact; and
 6. Fences in a front yard higher than four (4) feet.
- f. Accessory uses or structures provided that a minor garage or minor parking area is used exclusively for the parking of non-commercial automobiles;

- g. Signs, as prescribed in Article VII; and
- h. Required automobile parking space and loading space, as prescribed in Section 801.

2. YARDS; LOT AREA

Lot area requirements shall not be held to prohibit the erection of a one-family dwelling on a substandard lot of record, in which instance the following shall be applicable:

- a. On a lot less than seventy-five feet in depth, exclusive of the required front yard, the rear yard depth may be reduced, provided that it is at least fifty-three percent of such lot depth, exclusive of the required front yard.
- b. On a corner lot less than seventy feet in width, side yard widths may be reduced, provided that the width of a side yard abutting the street is at least thirty-five percent of the lot width, and the width of a side yard not abutting the street is at least ten percent of the lot width.
- c. Nothing in the area requirements of this Zoning Code relating to lot area per family shall be held to prohibit the erection of a one-family dwelling upon a lot, the area of which is less than that prescribed as the lot area per family, provided that such lot, at the time of the passage of this Zoning Code was held under separate ownership from the adjoining lots.
- d. In computing the depth of a rear yard for any building where such yard opens into the alley or street, the alley or street may be considered as a portion of the yard.
- e. In the case of a building on a through lot, the requirements for a rear yard may be waived, provided that there is furnished an equivalent open space in lieu thereof.
- f. An open porch may be erected in a front yard, provided that it is not closer to an adjoining property line than the required width of the side yard. A side yard abutting a street need not be more, but shall not be less, in width than the depth of the front yard required on an adjoining lot on that street.

3. OTHER PROVISIONS

Provisions regarding height, yard setback, lot area, and general rules are included in; Appendix A-Schedule of Heights and Area Regulations.

SECTION 503 R2 TWO-FAMILY RESIDENCE DISTRICT

The R2 Two-Family Residence District is composed of certain medium-density residential areas of the City representing a compatible mingling of single-unit and double-unit dwellings, plus certain open areas where similar residential development appears likely to occur. The regulations for this District are designed to stabilize and protect the essential characteristics of the District; to promote and encourage a suitable environment for family life; and to prohibit all activities of a commercial nature, except home office of doctors or ministers and certain home occupations controlled by specific limitations governing the size and extent of such non-residential activities. To these ends, development is limited to a relatively medium concentration, and permitted uses are typically single and two-unit dwellings providing homes for residents in this choice of dwelling types, plus certain additional uses such as schools, parks, churches and public facilities which serve the residents of the District.

1. PERMITTED USES

In an R2 Two-Family Residence District, land may be used and structures may be erected, altered, and enlarged and maintained for the following uses only:

- a. Any use permitted in the R1 District; and
- b. two-family dwellings;
- c. Special exceptions permitted by the Zoning Hearing Board, as prescribed in Article IX, including:
 1. Home-Based Occupation-Major Impact
 2. Family Day Care Home
 3. Group Day Care Home
 4. Group Home

2. YARDS; LOT AREA

- a. In measuring the width and depth of yards prescribed herein, a cornice projecting not more than twelve inches or a fence shall not be held to reduce such required dimensions.
- b. Nothing in the area requirements of this Zoning Code relating to lot area per family shall be held to prohibit the erection of a one-family dwelling upon a lot, the area of which is less than that prescribed as the lot area per family, provided that such lot, at the time of passage of this Zoning Code was held under separate ownership from the adjoining lots.
- c. In the case of a building on a through lot, the requirements for a rear yard may be waived, provided that there is furnished an equivalent open space in lieu thereof.
- d. An open porch may be erected in the front yard, provided that it is not closer to an adjoining property line than the required width of the side yard.
 - a. A side yard abutting a street need not be more, but shall not be less, in width than the depth of the front yard required on the adjoining lot on the street.

3. OTHER PROVISIONS

Provisions regarding height, yard setbacks, lot area, and general rules are included in; Appendix A-Schedule of Heights and Regulations.

SECTION 504 R3 MULTIPLE-FAMILY RESIDENCE DISTRICT

The R3 Multiple-Family Residence District is composed of certain medium-density residential areas of the City representing a compatible mingling of single-unit and multiple-unit dwellings. The regulations for this District are designed to stabilize and protect the essential characteristics of the District; to promote and encourage a suitable environment for family life; and to prohibit all activities to a commercial nature, except those having also some aspects of residential use such as home offices of doctors or ministers, funeral homes, and membership clubs, controlled by specific limitations governing the size and extent of such semi-commercial activities. To these ends, development is limited to a medium concentration, and permitted uses are typically single and two-unit dwellings, row dwellings and low-rise apartments, providing homes for residents in a variety of dwelling types, plus certain additional uses such as schools, parks, churches, hospitals, and public facilities which serve the residents of the District. However, high-rise apartments, with corresponding proportions of open space, may be developed under prescribed standards of density and open space.

1. PERMITTED USES

In an R3 Multiple-Family Residence District, the land and structures may be used, and structures may be erected, altered, enlarged and maintained, for the following uses only:

- a. Any use permitted in the R2 District;
- b. Multi-family dwellings,
- c. Planned residential developments;
- d. Conditional uses, as prescribed in Article X including:
 1. Hospitals, sanitariums or nursing homes or unit groupbuildings thereof; and
 2. Medical buildings for certain uses auxiliary to a hospital, or the location of such uses in a portion of a hospital building;
 3. Unit group residential development
- e. Special exceptions permitted by the Zoning Hearing Board, as prescribed in Article IX, including:
 1. Funeral homes;
 2. Membership clubs;
 3. Mobile Home Parks
 4. Home-Based Occupation - Major Impact
 5. Family Day Care Home
 6. Group Day Care Home
 7. Group Home
 8. Boarding House
 9. Halfway House

2. EXCEPTIONS TO HEIGHT REQUIREMENTS

The height of a multi-family dwelling, other than a row house, may be increased, provided that:

- a. The building is set back from the permitted side and rear building lines five feet, plus three feet for each story over three, or five feet, plus one foot for each three feet or

fraction thereof of building height over forty-five feet, whichever results in the greater dimension.

- b. The building is set back from the permitted front building lines three feet for each story over three, or one foot for each three feet or fraction thereof of building height over forty-five feet, whichever results in the greater dimension.
- c. No portion of the building is closer than 100 feet to any property in an R1 or R2 District.

3. YARDS; LOT AREA

Yard and lot area requirements for an R3 Multiple-Family Residence District shall be the same as set forth in Section 503B for an R2 District.

4. OTHER PROVISIONS

Provisions regarding height, yard setback, lot area, and general rules are included in; Appendix A-Schedule of Heights and Area Regulations.

Section 505 TND TRADITIONAL NEIGHBORHOOD DISTRICT

It is the purpose of this District to provide for the mixture of light-intensity commercial and residential uses commonly associated with the older neighborhoods of the City, while preserving historically and architecturally significant structures. This district attempts to recreate and strengthen the concept of interrelationship between residents and convenience retail and service businesses which historically formed the underlying fabric of the neighborhood, by promoting small commercial uses which primarily serve residents of the District in keeping with the historic settlement patterns, and single-family to moderate-density residential uses. These regulations are intended to promote the compatibility of these uses with each other, pedestrian travel within the District, and insure that all future development and construction is built to standards appropriate for the neighborhood.

1. PERMITTED USES

In a TND Traditional Neighborhood District, the land and structures may be used, and structures may be erected, altered, enlarged and maintained for the following uses only:

- a. Single-family detached dwellings.
- b. Two-family duplex or two-single family units on one lot.
- c. Town Houses with not more than eight (8) units in a continuous row.
- d. Multi-family owner- or renter-occupied residential development with no more than twelve (12) dwelling units per acre.
- e. Public utility transmission and distribution lines, substations and water pumping stations.
- f. Commercial establishments with a gross floor display area not to exceed 1,000 square feet, including antique shop, art gallery/studio, bakery, hair styling salon, bookstore, convenience/grocery store, hobby/craft/gift shop, hardware store, florist, dry cleaning (drop-off/pick-up) establishment, pet shop, pharmacy, and other similar uses approved by the Planning Commission. (Automotive Repair is not a permitted commercial activity)
- g. Eating (sit-down) and drinking establishments with an area not exceeding 1000 square feet.
- h. Service establishments including day care center, funeral home, social club, Bed and Breakfast establishment, and other similar uses approved by the Planning Commission.
- i. Offices for commonly recognized professions not to exceed 1000 square feet, including those for accountants, attorneys, physicians, dentists, chiropractors, engineers, optometrists, consultants and other similar uses approved by the Planning Commission.
- j. Parks, playgrounds and recreation areas not to exceed 5,000 square feet, under public or non-profit ownership.
- k. Minor impact home-based occupations.
- l. Accessory buildings, parking lots and uses on the same lot that are customarily incidental to and/or required for the above uses.

2. USES BY SPECIAL EXCEPTION

The following uses may be permitted by special exception by the Zoning Hearing Board, which may make approvals subject to conditions to be met and maintained by the applicant.

- a. The demolition of structures or portions of structures for a specific reuse within twelve (12) months of the proposed completion of demolition.
- b. Permitted uses in Section 1, Subsections f, g, i, and j, for areas in excess of the square footage designated.
- c. Churches or similar places of worship.
- d. The combination of two or more of the permitted within one parcel.
- e. Home-Based Occupation-Major Impact
- f. Family Day Care Home
- g. Group Day Care Home
- h. Group Home

3. HEIGHT REGULATIONS

The height of the building shall not be greater than thirty-five (35) feet and shall not be more than two and one-half (2 1/2) stories.

4. AREA REGULATIONS

The lot area per dwelling unit shall not be less than 4,000 square for single-and two-family residences and 2,500 square feet for other types of residential development. The minimum lot size for other uses shall be not less than 2,500 square feet.

5. WIDTH REGULATIONS

On an interior lot, the lot width at the building restriction line shall not be less than eighteen feet (18') for multi-family and permitted nonresidential uses, twenty-five feet (25') for single-family dwellings and forty feet (40') for any two-family dwellings. On a corner lot, the lot width at the building restriction line for any structure shall not be less than fifty feet (50').

6. YARD REGULATIONS

Each lot shall have front, side and rear yards of not less the depth or width indicated below:

- a. Front Yard-fifteen feet (15').
- b. Side Yards-four feet (4') for each side on an interior lot. On a corner lot, the side yard abutting the street shall not be less than fifteen feet (15').
- c. Rear Yard-twenty-five feet (25').

- d. Townhouses must meet the above front and rear yard requirements. However, individual side yard requirements do not apply except for the end of the row building, in which case the building end side yards shall be five feet (5') for interior lots. On a corner lot, the side(s) yards abutting the street shall be fifteen feet (15').

The above front and side yard setbacks may be reduced to meet the average setbacks for existing structures on the same block of record.

7. OFF-STREET PARKING

Parking for new construction shall be provided in accordance with provisions in ARTICLE VIII. Re-use of existing buildings will be allowed with the parking as it exists. No additional parking will be mandated.

8. SIGNS

Signs shall be provided in accordance with provisions of ARTICLE VII.

SECTION 506 H HEALTH SERVICE AND MEDICAL CENTER DISTRICT

The H Health Service and Medical Center District is designed to encourage the concentration of health services and other interdependent medical facilities in a beneficial relationship to one another to the mutual advantage of these uses and the users thereof, thus to promote public convenience and welfare. Land in this District is intended for concentrated health service and medical facility uses so that the mingling of other uses not needing close association with, nor compatible with, these facilities is to be discouraged. Therefore, residential and commercial uses are limited, and industrial or manufacturing uses are prohibited, as well as any other use which would substantially interfere with the development or continuation of the health service and medical facility uses in the District.

1. PERMITTED USES

In an H Health Service and Medical Center District, land and structures may be used, and structures may be erected, altered, enlarged and maintained, for the following uses only:

- a. Apartment hotels, in which not more than twenty-five percent of the floor area is in non-living quarter use, provided that any incidental business is conducted primarily as a service to the occupants, and that there is no entrance to such place of business except from inside the building, no sign and advertising such business and no display of the wares therein visible from outside the building;
- b. Hospitals; including dedicated heliports
- c. Clinics, including psychiatric, child guidance, medical or dental research clinics and the like;
- d. Homes for nurses;
- e. Hotels, in which not more than twenty-five percent of the floor area is in non-living quarter use, provided that any incidental business is conducted primarily as a service to the occupants, and that there is no entrance to such place of business except from inside the building, no sign advertising such business and no display of the wares therein visible from outside the building;
- f. Institutional homes for the full-time care or home of three or more babies, children or aged persons, except correctional or mental institutions;
- g. Medical supply establishments;
- h. Multi-family dwellings;
- i. Offices for a physician or dentist;
- j. Opticians' shops;
- k. Pharmacies;
- l. Research laboratories, medical or dental;
- m. Wholesale drug businesses;
- n. Restaurants to service area facilities

- o. Conditional uses, as prescribed in Article X, including:
 - 1. Government uses or structures;
 - 2. Sanitariums or nursing homes, or unit group buildings thereof;
 - 3. Medical buildings for certain uses auxiliary to a hospital, or the location of such uses in a portion of a hospital buildings;
 - 4. Public utility corporation buildings, structures, facilities and installations;
 - 5. Religious institutions or unit group buildings thereof; and
 - 6. Unit group residential development;
- p. Special exceptions permitted by the Zoning Hearing Board, as prescribed in Article IX, including:
 - 1. Community garages or major garages (without major repairs or body and fender work) or community parking areas; and
 - 2. Temporary structures or uses in connection with an authorized use
 - 3. Group Home
 - 4. Educational or Counseling Institution
- q. Accessory uses or structures;
- r. Signs, as prescribed in Article VII;
- s. Required automobile parking space and loading space, as prescribed in Section 801; and
- t. Financial institutions.

2. EXCEPTIONS TO HEIGHT REQUIREMENTS

The height of a main building may be increased, provided that:

- a. The building is set back from the permitted side and rear building lines five feet, plus three feet for each story over three, or five feet, plus one foot for each three feet or fraction thereof of building height over forty-five feet, whichever results in the greater dimension.
- b. The building is set back from the permitted front building line three feet for each story over three, or one foot for each three feet or fraction thereof of building height over forty-five feet, whichever results in the greater dimension.
- c. No portion of the building is closer than 100 feet to any property in an R1 or R2 District.

3. OTHER PROVISIONS

Provisions regarding height, yard setbacks, lot area, and general rules are included in; Appendix A-Schedule of Heights and Area Regulations.

SECTION 507 C1 NEIGHBORHOOD SHOPPING DISTRICT

The C1 Neighborhood Shopping District is designed to encourage the construction of new shopping facilities and continued use of land for neighborhood commercial service purposes; to limit residential use and prohibit heavy commercial and industrial use of land; to prohibit any other use which would substantially interfere with the development or continuation of the commercial uses and structures in the District; and to discourage any use which, because of its character and size, would interfere with the use of land in the District as a shopping and service center for the Residence Districts.

This District is intended to be applied to areas largely surrounded by residential classification. Because the location of the C1 District and the arrangement of the uses within it are expected to have a close relationship to the overall plan and protection to residential districts, it is deemed that the exercise of planning judgment on location and site plan is essential.

1. PERMITTED USES

In a C1 Neighborhood Shopping District, land and structures may be used, and structures may be erected, altered, enlarged and maintained, for the following limited commercial uses (including, in each instance, unit group building development):

- a. Shops having a floor area of less than 5,000 square feet for the sale of any beverages; books; confections; drugs; electrical appliances; including, but not limited to, radios, televisions, computers, and audio equipment; flowers; foodstuffs; hardware, notions; novelties; periodicals; shoes; sundry household articles; tobacco; and wearing apparel; provided that there is no manufacturing or processing except that which is incidental and essential to an enterprise in which merchandise is sold at retail primarily on the premises;
- b. Automobile or gasoline service stations (not including the making of major repairs), provided that:
 1. Only such activities as car washing, waxing, polishing, or greasing need be conducted entirely within an enclosed building.
 2. A fenced area for trash storage, not exceeding six feet in width and ten feet in length, may be maintained immediately adjacent to a main building.
 3. Except as provided in paragraph (b) (2) hereof, no stand, rack or other paraphernalia other than, or in direct connection with, merchandise offered for sale, is manifest outside a completely enclosed building.
 4. The use is located on a corner lot or a lot abutting property in a different zoning district classification within the same frontage.
- c. Barber shops or beauty parlors;
- d. Clothes pressing and repair;
- e. Branch of banks and financial institutions;
- f. Funeral homes and mortuaries;
- g. Laundry agencies, hand laundries or laundries operated by customers;
- h. Offices for recognized professions;
- i. Real estate offices;

- j. Eating and drinking establishments with a floor area not exceeding 6,000 square feet;
- k. Shoe repair shops;
- l. Tailor shops;
- m. Conditional uses, as prescribed in Article X, including:
 - 1. Government uses or structures, whether or not within an enclosed building;
 - 2. Public utility corporation buildings structures, facilities, and installations, whether or not within an enclosed building; and
 - 3. Retail stores, as otherwise permitted in this District, exceeding a floor area of 5,000 square feet;
- n. Special exceptions permitted by the Zoning Hearing Board, as prescribed in Article IX, including:
 - 1. Dwelling units on the second story of a building;
 - 2. Enlargement of non-conforming commercial industrial structures; and
 - 3. Temporary structures or uses in conjunction with an authorized use, whether or not an enclosed building;
- o. Accessory uses or structures, whether or not within an enclosed building;
- p. Signs, as prescribed in Article VII, whether or not within an enclosed building;
- q. Community garages or community parking areas (including commercial parking garages or parking areas), whether or not within an enclosed buildings;
- r. Required automobile parking space and loading space, as prescribed in Section 801, whether or not within an enclosed building; and
- s. Single-Family and Two-Family Residential Dwelling Units
 - Amended: Bill 23 of 2013; 11/27/2013 Ord. No. 5139
- t. Garden Apartments
 - Amended: Bill 23 of 2013; 11/27/2013 Ord. No. 5139
- u. Apartment House or Multi-Dwelling Unit

2. PERFORMANCE STANDARDS; SITE PLANS

- a. In a C1Neighborhood Shopping District, each enterprise shall:
 - 1. Be conducted entirely within an enclosed building, unless otherwise specifically stated;
 - 2. Be not objectionable because of odor, smoke, dust, noise, vibration, glaring light, or similar causes; and

- b. In any C1 District, the uses shall, in addition to conforming to any and all regulations pertaining thereto that are specifically set forth in this Zoning Code, be in accordance with a site plan approved by the Planning Commission. The site plan shall show, as proposed, the location of main and accessory structures on the site and in relation to one another; traffic circulation features within the site; the location of vehicular access onto the site; the height and bulk of structure; the provision of automobile parking space; the provision of other open space on the site; the landscaping, paving, fences and walls on the site; and the display of signs.
- c. In approving site plans, the Commission may act on site plans submitted to it or may act on its own initiative in proposing and approving a site plan

3. OTHER PROVISIONS

Provisions regarding height, yard setbacks, lot area, and general rules are included in; Appendix A-Schedule of Heights and Area Regulations.

SECTION 508 C2 COMMUNITY BUSINESS DISTRICT

The C2 Community Business District is intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking, other than stocking delivery of light retail goods, or by any nuisance factors other than those occasioned by incidental light and noise or congregation of people and passenger vehicles. This District includes such uses as retail stores, theaters and other amusement enterprises, business offices, newspaper offices and printing presses, restaurants, bars and community garages or community parking areas subject to special regulations. Residential and industrial use of land is limited, as well as any other use which would substantially interfere with the development or continuation of the commercial structures and uses in the District.

This District is intended to be located, so as to serve more than an immediate neighborhood, on or at the confluence of major access highways, so as to serve this purpose.

1. PERMITTED USES

- a. In a C2 Community Business District, land and structures may be used, and structures may be erected, altered, enlarged and maintained, for commercial uses listed hereunder, provided that:
 1. All merchandise and products are sold at retail, unless otherwise stated hereunder.
 2. There may be manufacturing, compounding, processing or treatment of products which is clearly incidental and essential to a retail store or business, only when the major portion of such products is to be sold at retail on the premises.
 3. Such uses, operations or products are not noxious or offensive by reason of the emission of odor, dust, smoke, gas, vibration, noise or other similar causes.
 4. There is no upper limit in square footage for retail establishments.
- b. Any use permitted in the C1 District, except community garages or community parking areas, which are otherwise permitted by the Zoning Hearing Board;
- c. Retail stores (except where live poultry and live animals are kept on the premises), including incidental repair shops;
- d. Amusement enterprises, including a billiard or pool hall, bowling alley, boxing arena, dance hall, games of skill and chance, theater or cinema (other than a drive-in theater), festival grounds, incorporating outdoor fairs, concerts, expositions, and the like, shooting gallery and the like, provided that any portion of the use within 300 feet of property in a R or H District is conducted entirely within a completely enclosed building;
- e. Single-Family and Two-Family Residential Dwelling Units
- f. Auditoriums;
- f. Automobile and trailer sales and supply businesses, with incidental service, provided that any sales area is located and developed as required in Section 801;
- g. Gymnasiums;
- h. Beverages, retail or wholesale distribution of;

- i. Business colleges, trade or proprietary schools;
- j. Catering establishments;
- k. Cleaning establishments;
- l. Clubs, social and civic;
- m. Custom dressmaking, millinery and tailoring;
- n. Day nurseries;
- o. Department and discount stores;
- q. General gardening and growing of trees and nursery stock including roadside displays and commercial signs);
- p. Feed stores;
- q. Frozen food storage, excluding wholesale storage;
- r. Funeral homes or mortuaries;
- s. Furniture and furnishings, sale of;
- t. General photography and reprographic arts;
- w. Multi-Family Buildings, Hotels, or Motels
- u. Hospitals for animals (dogs, cats, etc.) including kennels, with enclosed yards;
- v. Interior decorating businesses;
- w. Commercial Parking Lots;
- x. Libraries;
- y. Medical or dental clinics, laboratories or medical supply houses;
- z. Nurseries, flower or plant, provided that all incidental equipment and supplies, including fertilizer and supply cans, are kept within an enclosed building;
- aa. Offices;
- bb. Opticians' shops;
- cc. Pawnshops;
- dd. Plumbing, heating or electrical businesses not involving sheet metal work;
- ee. Printers' shops;
- ff. Printing plants for local newspapers;

- gg. Restaurants and bars (with no upper square footage limits);
- hh. Sign painting;
- ii. Studios: broadcasting, music, dance, art, and the like;
- jj. Upholstering and minor repair of furniture and home or office furnishings;
- kk. Multi-Use Residential Dwelling Unit
- ll. Conditional uses, as prescribed in Article X, including:
 - 1. Drive-in theaters; and
 - 2. Philanthropic or religious institutions
- mm. Special exceptions permitted by the Zoning Hearing Board, as prescribed in Article IX, including, community garages or major garages (without major repair or body and fender work), or community parking areas (including commercial parking garages).

2. EXCEPTIONS TO HEIGHT REQUIREMENTS

The height of a main building in a C2 District may be increased, provided that:

- a. The building or increased height portion thereof is set back from the permitted building line one foot for each four feet of building height over forty-five feet, or two and one-quarter feet for each story over three, whichever results in the greater dimension.
- b. The cubical content of the building does not exceed the cubical content of a solid having a base equal to the buildable area of the lot and height of forty-five feet.

3. OTHER PROVISIONS

Provisions regarding height, yard setback, lot area, and general rules are included in; Appendix A-Schedule of Heights and Area Regulations.

SECTION 509 C3 CENTRAL BUSINESS DISTRICT

The C3 Central Business District is intended as the primary business district of the community for the conduct of general business. It is the objective in this District to provide sufficient space in appropriate locations for the transaction of all types of commercial and miscellaneous service activities in beneficial relationship to one another, and thus strengthen the economic base of the community; to provide appropriate space, including sufficient ground area, permissible height and bulk of buildings including room for off-street parking facilities, to satisfy the needs of modern commercial development; and to encourage the tendency of commercial development to concentrate to the mutual advantage of both the consumer and the merchant, thus promoting public convenience, prosperity and welfare. Land in this District is intended for concentrated commercial development, which is not property associated with, nor compatible with, residential, industrial and neighborhood commercial and service establishments. Therefore, residential uses are limited and industrial or manufacturing uses (except when incidental to a retail business) are prohibited, as well as any other use which would substantially interfere with the development or continuation of the commercial structures and uses in the District.

1. PERMITTED USES

- a. In a C3 Central Business District, land and structures may be used, and structures may be erected, altered, enlarged and maintained, for commercial uses listed hereunder, provided that:
 1. All merchandise and products are sold at retail, unless otherwise stated hereunder.
 2. There may be manufacturing, compounding, processing or treatment of products which is clearly incidental and essential to a retail store or business, only when the major portion of such products is to be sold at retail on the premises.
 3. Such uses, operations or products are not noxious or offensive by reason of the emission of odor, dust, smoke, gas, vibration, noise or other similar causes.
- b. Single-Family and Two-Family Residential Dwelling Units;
- c. Multi-Use Residential Dwelling Unit
- d. Philanthropic or religious institutions;
- e. Museums;
- f. Office appliances and supply businesses;
- g. Tire sales and repair businesses, if conducted wholly within a completely enclosed building;
- h. Wholesale merchandise establishments and incidental storage thereof, if conducted within an enclosed building;
- i. High-Rise Apartment Buildings;
- j. Government uses or structures;
- k. Recreation areas;
- l. Professional and financial offices;

- m. Hospital, including accessory heliport;
- n. Retail stores (except where live poultry and live animals are kept on the premises);
- o. Amusement enterprises, including a billiard or pool hall, bowling alley, boxing arena, dance hall, games of skill and chance, theater or cinema (other than a drive-in theater), festival grounds, incorporating outdoor fairs, concerts;
- p. Auditoriums;
- q. Gymnasiums;
- r. Automobile sales and supply businesses, with incidental service, provided that any sales area is located and developed as required in Section 801;
- s. College or University of higher learning, business colleges, and trade or proprietary schools;
- t. Catering establishments;
- u. Cleaning establishments;
- v. Clubs, social and civic;
- w. Custom dressmaking, millinery and tailoring;
- x. Day nurseries;
- y. Department and discount stores
- z. General gardening and growing of trees and nursery stock including roadside displays and commercial signs;
- aa. Frozen food storage, excluding wholesale storage;
- bb. Funeral homes or mortuaries;
- cc. Furniture and furnishings, sale of;
- dd. General photography and reprographic arts;
- ee. Hotels or motels;
- ff. Interior decorating businesses;
- gg. Community parking lots and garages;
- hh. Libraries;
- ii. Medical or dental clinics, laboratories, or medical supply houses;
- jj. Opticians' shops;

- kk. Plumbing, heating, or electrical businesses not involving sheet metal;
- ll. Painters' shops;
- mm. Restaurants and bars (with no upper footage limits;
- nn. Sign painting;
- oo. Studios: broadcasting, music, dance, art, and the like; and
- pp. Upholstery and minor repair of furniture and home or office furnishings.
- qq. Special exceptions permitted by the Zoning Hearing Board, as prescribed in Article IX, including:
 - 1. Bed and Breakfast
 - 2. Educational or Counseling Institution

2. OTHER PROVISIONS

Provisions regarding height, yard setbacks, lot area, and general rules are included in; Appendix A-Schedule of Heights and Area Regulations.

SECTION 510 M1 LIGHT INDUSTRIAL DISTRICT

The M1 Light Industrial District is intended to permit and encourage industrial development that will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the City, contribute to the soundness of the economic base of the City, provide opportunities for local employment close to residential areas, thus reducing travel to and from work, and otherwise further the purposes set forth in this Zoning Code. The limitations on use, height and lot coverage are intended to provide for modern light industrial development in an urban environment. Residential and more general commercial uses are considered not compatible and are prohibited, as well as any use, which would substantially interfere with the development of continuation of industrial uses and structures in the District.

1. PERMITTED USES

- a. In an M1 Light Industrial District, land and structures may be used, and structures may be erected, altered, enlarged and maintained, for light industrial uses listed hereunder, provided that:

1. No explosive materials or processes are involved.
2. No smoke, fumes, odor, dust, noise, vibration, or glaring light is noticeable from outside any lot in this District.
3. The use is not offensive by reason of the emission of refuse matter or water-carried waste.
4. There may be retail sale of products on the premises, when such sale is clearly incidental and essential to the permitted industrial use.

Amended: Bill 1 of 2013; 1/23/2013 Ord. No. 5119

- b. Any non-residential uses permitted in a C1 or C2 District
- c. Assembly of small electrical appliances;
- d. Automobile services, stations for the sale of fuel, lubrication oil and accessories; community garages; community parking areas; major garages; major repair; painting; upholstery; tire retreading or recapping; battery manufacture; and the like, including commercial parking garages or commercial parking areas;
- e. Automotive sales;
- f. Building material sales establishments;
- g. Distribution plants, including parcel delivery, ice and cold storage plants, bottling plants and food commissaries or catering establishments;
- h. Laboratories-experimental, photo, motion picture, film or testing;
- i. Machinery sales and displays;
- j. Manufacturing, fabricating, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: bone; canvas; cellophane; clay; cloth; cork; feathers; felt; fiber; fur; glass; metal; horn; leather; paint, not employing a boiling process; paper; plastics; precious or semi-precious metals or stones; shell; straw; textiles; tobacco; wood, but not including heavy woodworking shops; and yarns;

- k. Manufacture of pottery, figures or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas;
- l. Manufacture, fabrication and maintenance of electric and neon signs, billboards, commercial advertising structures and metal products of a light nature, including heating and ventilating ducts and equipment (cornices, eaves and the like) and plumbing, heating or electrical contracting businesses;
- m. Manufacture of musical and small precision instruments, watches, clocks, toys, novelties and rubber and metal hand stamps;
- n. Manufacture, processing, canning, packaging or treatment of such products as beverages, cosmetics, drugs, perfumed toilet soaps, perfumes, pharmaceuticals and food products, not including fish smoking, curing or canning, rendering of fats and oils or the slaughter of animals;
- o. Offices in conjunction with, and on the same zoning lot with, an industrial plant development, provide that the floor area does not exceed fifty percent of the area of the zoning lot;
- p. Offices, professional;
- q. Printing, lithographing, type composition, ruling and binding establishments;
- r. Wholesale businesses;
- s. Storage, other than:
 - 1. Celluloid;
 - 2. Coal and coke;
 - 3. Garbage, offal, dead animals or refuse;
 - 4. Gas (in its various forms) in excess of 10,000 cubic feet;
 - 5. Gasoline in excess of an amount necessary for use on the premises or to supply retail trade at a service station;
 - 6. Gunpowder, fireworks, or other explosives;
 - 7. Junk, scrap, metal, paper, rages or junked automobiles;
 - 8. Petroleum and petroleum by-products in unpackaged or bulk form, in excess of an amount necessary for use on the premises;
 - 9. Raw hides or skins;
 - 10. Radioactive Waste
 - 11. Medical Waste
- t. Conditional uses, as prescribed in Article X, including:
 - 1. Government uses or structures;
 - 2. Major excavating, grading or filling, except for strip or other mining of coal or other minerals, excavating of sand or rock and crushing of rock, sanitary and other fills, drilling for gas or oil, recovery of metal or natural resources and similar operations; and
 - 3. Public utility corporation buildings, structures, facilities and installations;
- u. Special exceptions permitted by the Zoning Hearing Board, as prescribed in Article IX, including:

1. Any of the uses listed in this section not completely with the qualifications of paragraphs (a) (1) and (2) hereof;
2. The erection of a structure to a reasonable height above the District requirements;
3. Limited enlargement of a nonconforming commercial or industrial structure; and
4. Temporary structures or uses in connection with an authorized use;

v. Accessory uses or structures;

w. Signs, as prescribed in Article VII; and

x. Required automobile parking space and loading space, as prescribed in Section 801.

y. Any use proposed but not listed shall be reviewed by the Planning Commission.

2. OTHER PROVISIONS

Provisions regarding height, yard setbacks, lot area, and general rules are included in; Appendix A-Schedule of Heights and Area Regulations.

SECTION 511 M2 INDUSTRIAL SERVICE AND DISTRIBUTION DISTRICT

The M2 Industrial Service and Distribution District is designed to accommodate light industrial warehousing and wholesale and service-type uses which, in general, do not depend on frequent personal visits of customers or clients, and are not compatible within, but do provide a necessary service to, the primary business district of the community. The permitted uses do not include residences or commercial uses of a primary retail nature, other than an automobile service station, since these uses are deemed to interfere substantially with the development, continuation or expansion of the intended commercial and industrial uses in the District.

1. PERMITTED USES

In an M2 Industrial Service and Distribution District, land and structures may be used, and structures may be erected, altered, enlarged and maintained, for the following uses only, provided that each enterprise is not noxious or offensive by reason of glaring light or the emission of odor, smoke, dust, noise, vibration, or similar causes:

- a. Any use permitted in M-1

Amended: Bill 1 of 2013; 1/23/2013 Ord. No. 5119
- b. Any non-residential uses permitted in a C1 or C2 District
- c. Automobile services, including automobile sales; stations for the sale and service of fuel, lubricating oil and accessories; major repair; painting; upholstery; tire retreading or recapping; battery manufacture; and the like;
- d. Automobile trailer sales and supply businesses, with incidental service, provided that any sales area is located and developed as required in Section 801;
- e. Beverages, wholesale distribution of;
- f. Building material sales establishments;
- g. Cleaning establishments, excluding bag and rug cleaning;
- h. Community garages or community parking areas (including commercial parking garages or parking areas);
- i. Distribution plants, including parcel delivery, ice and cold storage plants, bottling plants and food commissaries or catering establishments;
- j. Electrical and electronic component manufacturers;
- k. General photography (including blueprinting and photostating);
- l. Laboratories - experimental, photo, motion picture, film or testing;
- m. Metal fabrication plants;
- n. Nurseries, flower or plant;
- o. Offices, professional or business;

- p. Plumbing, heating and electrical businesses;
- q. Printing, lithographing, type composition, ruling and binding establishments;
- r. Sign painting;
- s. Storage, other than:
 - 1. Celluloid;
 - 2. Coal and coke;
 - 3. Garbage, offal, dead animals or refuse;
 - 4. Gas (in its various forms) in excess of 10,000 cubic feet;
 - 5. Gasoline in excess of an amount necessary for use on the premises or to supply retail trade at a service station;
 - 6. Gunpowder, fireworks, or other explosives;
 - 7. Junk, scrap, metal, paper, rages or junked automobiles;
 - 8. Petroleum and petroleum by-products in unpackaged or bulk form, in excess of an amount necessary for use on the premises;
 - 9. Raw hides or skins; and
 - 10. Terminal warehousing or transfer depots;
 - 11. Radioactive waste
 - 12. Medical waste
- t. Tire sale and repair businesses;
- u. Upholstering and minor repair of furniture and home or office furnishings;
- v. Wholesale merchandise establishments and incidental storage therefore;
- w. Wireless communication facilities;
- x. Conditional uses, as prescribed in Article X, including:
 - 1. Government uses or structures
 - 2. Major excavating, grading or filling, except for strip or other mining of coal or other minerals, excavating of sand or rock and crushing of rock, sanitary and other fills, drilling for gas or oil, recovery of metal or natural resources and similar operations;
 - 3. Motor freight terminals; and
 - 4. Public utility corporation buildings, structures, facilities and installations;
- y. Special exceptions permitted by the Zoning Hearing Board, as prescribed in Article IX, including:
 - 1. The limited enlargement of a non-conforming commercial or industrial structure; and
 - 2. Temporary structures or uses in connection with an authorized use;
- z. Accessory uses or structures;
- aa. Signs, as prescribed in Article VII.

bb. Required automobile parking space and loading space, as prescribed in Section 801.

2. OTHER PROVISIONS

Provisions regarding height, yard setbacks, lot area, and general rules are included in;
Appendix A-Schedule of Heights and Area Regulation

SECTION 512 M3 HEAVY INDUSTRIAL DISTRICT

The M3 Heavy Industrial District is established as a District in which the principal use of land is for heavy industrial establishments which may create some nuisance, and which are not properly associated nor compatible with residential, institutional, commercial and service establishments. This District is intended to provide for the kinds of industrial uses suited to the physical and geographical advantages of this region, therefore contributing to the economic base of the community and providing opportunities for industrial employment. Residential and, in general, commercial uses, are prohibited, as well as any use which would substantially interfere with the development and continuation of the industrial uses and structures in the District.

1. PERMITTED USES

In an M3 Heavy Industrial District, land and structures may be used, and structures may be erected, altered, enlarged and maintained, for the following uses only, including the retail sale of products when such sale is clearly incidental to the permitted industrial use.

- a. Any use permitted in the M1 and M2 Districts;
Amended: Bill 1 of 2013; 1/23/2013 Ord. No. 5119
- b. Any non-residential uses permitted in a C1 or C2 District
- c. Airplane Factory or hanger;
- d. Alcohol manufacture or refining;
- e. Ammonia, bleaching powder or chlorine manufacture;
- f. Asphalt manufacture or refining;
- g. Building, plumbing and welding establishments;
- h. Blast furnace or coke oven;
- i. Boat building;
- j. Boiler works;
- k. Box factory;
- l. Brewery;
- m. Brick, tile or terra cotta manufacture, exotic materials manufacturing;
- n. Building-mover and wrecker's establishment;
- o. Chemical manufacture;
- p. Cleaning and dyeing establishment, using non-flammable cleaning fluids;
- q. Community garage, major garage or community parking area;
- r. Concrete or cement products manufacture;

- s. Contractor's establishment, including storage of equipment;
- t. Drop forge industry manufacturing forgings with power hammers;
- u. Feed and fuel sales establishment;
- v. Feed mixing plant;
- w. Grain elevator;
- x. Iron, steel or other metal manufacture or treatment, foundry or fabrication plant, and heavy weight casting;
- y. Killing or dressing and/or packaging of poultry;
- z. Landscape gardener's sales area or business;
- aa. Laundry;
- bb. Lumber storage, millwork and sales;
- cc. Machine shop;
- dd. Machine-repairing, sales and display;
- ee. Manufacture of appliances, electrical and mechanical; instruments, electronic, musical, precision or the like; machines, electric or mechanical, for home or office and the like; and phonographs, radios, telephones or other instruments or machines for receiving, reproducing or transmitting sound;
- ff. Motor freight terminal
- gg. Ore reduction;
- hh. Paint, oil (including linseed), shellac, turpentine, lacquer or varnish manufacture;
- ii. Paper and pulp manufacture;
- jj. Petroleum products manufacture;
- kk. Planning mill;
- ll. Potash work;
- mm. Public utility corporation buildings, structures, facilities and installations;
- nn. Quarry or stone mill;
- oo. Recycling plant;
- pp. Repair shop, including railroad repair shop, distribution and classification yards and supporting facilities;

- qq. Rock, sand or gravel distribution;
- rr. Rolling mills;
- ss. School, industrial or trade;
- tt. Selling of poultry, and fish, including cleaning and dressing and the temporary keeping of live poultry on the premises;
- uu. Sodium compounds manufacture;
- vv. Stone or monument works;
- ww. Storage, industrial and otherwise;
- xx. Tar distillation or tar products manufacture;
- yy. Terminal warehousing or transfer depot;
- zz. Tool manufacture;
- aaa. Wholesale business;
- bbb. Conditional uses, as prescribed in Article X, including:
 - 1. Garbage or refuse disposal plants;

2. OTHER PROVISIONS

- a. Provisions regarding height, yard setbacks, lot area, and general rules are included in Appendix A-Schedule of Heights and Area Regulations.
- b. If there is no clearly defined location for a newly proposed application then the Zoning Officer will provide an opinion, which shall be subject to review by the Planning Commission.

SECTION 513 “FP” FLOOD PLAIN DISTRICT

The Flood Plain District is designed as a sub-zone, or overlay zone, within any given zoning district. The recognition of a Flood Plain District on the Zoning Map serves to minimize loss of life and health and damage to public and private property due to recurring or severe flooding. The Flood Plain District also provides notices to prospective developers that flooding may be expected in the area.

The identified Flood Plain District shall be any area within the City, subject to the one hundred (100) year flood, which is identified as Zone A (Area of Special Flood Hazard) on the most recent Flood Hazard Boundary Map (FHBM) as issued by the Federal Emergency Management Agency (FEMA), or on the most recent Flood Insurance Rate Map (FIRM) issued by FEMA, if such a map has been prepared for the City of Johnstown.

1. Flood Elevation Determination

For the purposes of this Ordinance, the one hundred (100) year flood elevation shall be used as the basis for regulation. To determine the one hundred year flood elevation, the elevation at a given point on the boundary of the identified flood plain area which is nearest the construction site in question will be used. In helping to make this necessary elevation determination, other sources of data, where available, shall be used such as:

- a. Corps of Engineers-Flood Plain Information Reports
- b. U.S. Geological Survey-Flood Prone Quadrangles
- c. U.S.D.A., Soil Conservation Service - County Soil Surveys (Alluvial Soils) or P.L. 566 Flood Information
- d. Pennsylvania Department of Environmental Protection-Flood Control Investigations
- e. Known High-water Marks from Past Floods
- f. Other Sources

In lieu of the above, the City may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the City.

2. Changes in Identification of Area

The identified flood plain area may be revised or modified by the City where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

3. Boundary Disputes

Should a dispute concerning any identified flood plain boundary arise, an initial determination shall be made by the City Planning Commission and any party aggrieved by this decision may appeal to the City. The burden of proof shall be on the appellant.

4. General Technical Requirements

- a. In the identified flood plain area, the development and/or use of any land shall be permitted provided that the development and/or use complies with the restrictions and requirements of this and all other applicable codes and ordinances in force in the City. (Municipal Flood Plain Ordinance)
- b. Within any identified flood plain area, the elevation of the lowest floor (including basement) of any new or substantially improved residential structure shall be at least at the level of the one hundred (100) year flood elevation.
- c. Within any identified flood plain area, the elevation of the lowest floor (including basement) of any new or substantially improved non-residential structure shall be at least at the level of the one hundred (100) year flood elevation or be flood-proofed up to that height.
- d. Any non-residential structure, or part thereof, which will not be completely or adequately elevated, shall be flood-proofed in accordance with the provisions of the City's Flood Plain Ordinance. Additional information may be obtained from the publication entitled, "Flood-Proofing Regulations" (U.S. Army Corps of Engineers, June 1972).

5. Design and Construction Standards

The minimum standards for all construction and development proposed within any identified flood plain area shall be provided in the City's Flood Plain Ordinance.

6. Development Which May Endanger Human Life

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

- a. Will be used for the production or storage of any of the following dangerous materials or substances; or,
- b. Will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or
- c. Will involve the production, storage, or use of any amount of radioactive substances; shall be prohibited from development within any identified flood plain area. The following list of materials and substances are considered dangerous to human life:
 1. Acetone
 2. Ammonia
 3. Benzene
 4. Calcium carbide
 5. Carbon disulfide
 6. Celluloid
 7. Chlorine
 8. Hydrochloric acid
 9. Hydro cyanic acid

10. Magnesium
11. Nitric acid and oxides of nitrogen
12. Petroleum products (gasoline, fuel oil, etc.)
13. Phosphorus
14. Potassium
15. Sodium
16. Sulphur and sulphur products
17. Pesticides (including insecticides, fungicides and rodenticides)
18. Radioactive substances, insofar as such substances are not otherwise regulated.

7. Special Requirements for Mobile Homes

Shall be required as provided in the City's Flood Plain Ordinance.

8. Activities Requiring Special Permits

The following activities shall be prohibited within any identified flood plain area unless a Special Permit has been issued by the City as provided in the City's Flood Plain Ordinance:

- a. Hospitals;
- b. Nursing Homes;
- c. Jails or Prisons; and
- d. Mobile Home Parks.

Application requirements, review procedures, and special technical requirements are contained within the City's Flood Plain Ordinance regarding the above-mentioned activities.

9. Existing Structures in Identified Flood Plain Areas

a. Existing Structures

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

b. Improvements

The following provisions shall apply whenever any improvement is made to an existing structure located within any identified flood plain area: Any modification, alteration, reconstruction, or improvement, of any kind to an existing structure, to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance and the City's Flood Plain Ordinance.

10. Variances

Requests for variances shall be considered by the City in accordance with the procedures contained in the City Flood Plain Ordinance.

Section 514 AO ARTIST OVERLAY DISTRICT

This district is designed to permit artisans to occupy traditionally one and two family residential units within designated areas for their live/work space. These properties can be used for an artist's residence, studios, and galleries. Regulations have been established in order to promote and achieve optimal conditions for artist functions, provided that each enterprise is not noxious or offensive by reason of glaring light or emission of odor, smoke, dust noise, vibration or similar causes, while maintaining adequate protection from unsightly storage and outdoor display.

This Division applies to any lot or parcel within the Artist Overlay Zone on the zoning map. The Artist Overlay Zone is an overlay district that may be applied in any neighborhood and/or zoning district where applicable. The following regulations for the Artist Overlay Zone shall qualify or supplement the Zone regulations already established.

1. PERMITTED USES

In an Artist Overlay District land and structures may be used, and structures erected, altered, enlarged, and maintained for the following uses only:

- a. Artist/live work studios:
 1. Living quarters
 2. Production/manufacture of art
 3. Retail sales
- b. Any use permitted in the underlying zoning classification
- c. Special exceptions can be granted for structures intended to be artist live/work space that do not meet any of the AO district's other regulations outlined in this text

2. DIMENSIONAL REGULATIONS

For new buildings, the dimensional regulations, including height and setbacks are the same as that of the underlying zoning district. Buildings that are legally nonconforming may be used for any purpose established in this District.

3. BUILDING AND ACCESSORY USE REGULATIONS

- a. At least 300 sq feet shall be used exclusively for living purposes. A minimum of 150 sq ft of living space per person occupying such live/work space is required
- b. Open outdoor lot (s) may not be used for any kind of production, assembly, storage or manufacture of art.
- c. Production/Manufacture of art permitted in attached or detached accessory buildings.

4. PRODUCTION STANDARDS

- a. In those production techniques which necessitate the use of a kiln, the total volume of kiln space shall not exceed thirty (30) cubic feet and no individual kiln shall exceed ten (10) cubic feet

- b. Power tools shall be limited to electrically operated motors of not more than three (3) horse powers.
- c. Ventilation and filtration of odor, smoke, etc must be structured in a manner that such contaminants removed from the live/work area and not directly expelled towards an adjacent parcel
- d. Excessive noise as a result of machinery or production methods is prohibited.

5. PERFORMANCE STANDARDS

All proposed uses shall provide documentation to the satisfaction of the Zoning Officer that the proposed use will be in conformance with the performance standards listed herein.

In the event any use fails to meet the performance standards the Zoning Officer may, after proper notice, require that the use be terminated within 60 days unless the use can be corrected to satisfactorily meet the performance standards listed.

- a. Odor: The emission of obnoxious odors of any kind shall not be permitted.
- b. Smoke, dust, dirt shall not be emitted.
- c. Gases: No gas shall be emitted which is deleterious to the public health and safety.
- d. Vibration: No use shall cause earth vibrations or concussions detectable beyond its property lines, without the aid of instruments, with the exception of that vibration produced as a result of construction activity.
- e. Fire and Safety Hazard: The storage of crude oil or any of its volatile products or other highly flammable liquids shall be in accordance with City and State regulations.
- f. Excessive noise as a result of machinery or production methods is prohibited.

6. BUSINESS ELEMENT CONCERNS

- a. Art production element of live/work arrangement may only provide for the employment/training of no more than two non-occupants of said structure
- b. Parking requirements: Except when specifically exempt from the regulations of this ordinance all structures built hereafter shall provide off-street parking in accordance with this ordinance.
- c. Parking for non-resident employees/trainees is not required on individual parcels. Such individuals must utilize on-street parking and adhere by noted parking regulations for that area.
- d. Signs designating the live/work space's gallery and studio should follow guidelines outlined in ARTICLE VII, Section 704.
- e. Storage of all materials related to art production/manufacture shall be stored within primary structure, or an accessory building.

- f. Shipping and receiving of products, supplies or similar items from the live/work structure must be by the residents or by a courier service that shall not create traffic congestion in a residential area.

ARTICLE VI

PLANNED RESIDENTIAL DEVELOPMENT PROVISIONS

SECTION 601 PURPOSE

Planned residential development is a technique wherein residential structures (semi—detached, detached, and multi-story) are arranged in closely related groups. It may also include land uses of a cultural, recreational, and commercial character to the extent that they are designed to serve the residents. Instead of spreading houses uniformly over an entire tract, cluster development occurs, creating higher densities in certain areas and preserving natural features in others. Under such planning, lot size is reduced and the land thus saved is used for common greens or open space.

SECTION 602 GRANT OF POWER

1. The City shall administer Planned Residential Development provisions subject to the provisions set forth in this Ordinance and as provided by Article VII, PA Municipalities Planning Code, Act 247 as amended.
2. The standards, conditions, and regulations for a Planned Residential Development shall be consistent with the provisions contained in Article VII, PA Municipalities Planning Code, Act 247 as amended.
3. The procedures pertaining to the application for, hearing on and tentative and final approval of a Planned Residential development shall be consistent with the provisions contained in Article VII, PA Municipalities Planning Code, Act 247 as amended.

SECTION 603 APPLICABILITY OF COMPREHENSIVE PLAN

Every application for approval of a planned residential development shall be based on, and interpreted in relation to, the City's Comprehensive Plan.

SECTION 604 JURISDICTION OF COUNTY PLANNING COMMISSION

When the County has adopted a planned residential development ordinance in accordance with the Pennsylvania Municipalities Planning Code, a certified copy of the ordinance shall be sent to the City. All amendments thereof shall also be sent to the City. The County shall not supersede any planned residential development, zoning, or subdivision and land development ordinance which has already been in effect or which subsequently becomes effective in the City. All applications for tentative approval of planned residential developments within the City shall be referred to the County Planning Commission for study and recommendation. The County Planning Commission shall be required to report to the City within 30 days or forfeit the right to review.

SECTION 605 STANDARDS AND CONDITIONS

A Planned Residential Development may be permitted by the City in an R-3 Residential District subject to the requirements set forth in this Ordinance and as provided by Article VII, Pennsylvania Municipalities Planning Code, Act 247 as amended.

1. Minimum Lot Size:

The minimum lot size for any planned residential development shall be five (5) acres.

2. Permitted Uses:

- a. Single-family detached dwellings.
- b. Two-family detached dwellings.
- c. Multiple row dwellings, townhouses, and garden apartments with a maximum of eight (8) units per building.
- d. Multi-story apartments not to exceed sixty (60) feet above ground in height.
- e. Community buildings which are for the social, cultural, or recreational use of the residents of the development.
- f. Open space and recreation facilities developed and maintained principally for use of residents of the development.
- g. Certain non-residential uses such as buildings for convenience shopping and personal services provided that such uses along with required parking occupy not more than ten percent (10%) of the total land area of the development.

3. Dwelling Standards

Each dwelling unit in a Planned Residential Development shall have a minimum floor area of not less than eight hundred (800) square feet.

4. Density

The dwelling unit density shall conform to the following:

- a. Single family-five (5) units per acre.
- b. Two-family-ten (10) units per acre.
- c. Row dwelling-fifteen (15) units per acre.
- d. Multi-story dwellings twenty-nine (29) units per acre.
- e. For mixed types of structures the overall density may not exceed twelve (12) units per acre.

5. Public Open Space Required

At least two hundred fifty (250) square feet per family unit shall be set aside and maintained for an outdoor recreation area by the owner of the development, his successors and assigns, of which one hundred (100) square feet per family unit shall be developed with recreation equipment and playground area. In lieu of maintenance by the developer, an association of homeowners in the development may provide such maintenance, but documents creating such an association shall be approved by the City solicitor before final approval is given for the Planned Residential Development. Should neither the developer nor an approved homeowners association maintain the public open space required in this sub-section, and then the City shall have the option to

maintain the public open space and, if it chooses to do so, impose a lien on the individual properties in the development to collect the costs of such maintenance.

6. Setback Requirements and Minimum Distance Between Buildings

Setback Requirements

The setback requirements for all buildings erected in a Planned Residential Development shall be as follows:

- a. A minimum setback of seventy (70) feet shall be observed around the entire perimeter of tract or lot used for the Planned Residential Development. No main or accessory building may be erected within the setback area. However, outdoor recreation facilities and parking lots may be constructed in the area provided that they are a minimum of forty (40) feet from the perimeter lot lines.
- b. A front yard setback of thirty-five (35) feet shall be observed for all buildings erected adjacent to streets within the Planned Residential Development.

Minimum Distance Between Buildings

When more than one multiple-family dwelling building is erected on a single site, lot, or tract, the minimum distances between buildings shall be as follows:

- a. Front to front-seventy (70) feet; front to rear-sixty (60) feet.
- b. Side to side-one-half (1/2) of the height of the tallest building but not less than twenty-five (25) feet.
- c. Front to side or rear to side-the height of the tallest building but not less than thirty-five (35) feet.
- d. Rear to rear-fifty (50) feet.

7. Percentage of Lot Coverage

All buildings including accessory buildings shall cover not more than forty percent (40%) of the area of the lot or tract.

The developer or owner of any Planned Residential Development shall be responsible for the engineering, construction, installation, and maintenance of site improvements as follows:

1. Engineering Site Plan Required

An engineering site plan shall be prepared by a registered architect, professional engineer, or registered surveyor and filed with the City prior to the start of any construction of an approved Planned Residential Development. The site plan shall be drawn at a minimum scale of one inch equals fifty feet (1" = 50') and shall indicate the exact location and dimensions of all buildings, streets, sidewalks, roads, parking areas, water lines, sanitary sewer lines, telephone lines, recreation areas, landscaping, walls, fences, right-of-way lines, property lines, and any other features to be constructed or installed on the site. A topographic map shall be prepared at a minimum scale of one inch equals fifty feet (1" = 50') with a minimum contour interval of five (5) feet and shall indicate all existing and final grades for the site; spot elevations shall be

indicated for streets, storm and sanitary sewers, and other elevation features as deemed appropriate and necessary by the City.

2. Perimeter Survey

A perimeter survey of the parcel to be developed as a Planned Residential Development shall be prepared by a registered surveyor. Permanent concrete markers, with a minimum standard of six by six by thirty inch (6" x 6" x 30") with a copper rod, shall be installed on all corners around the perimeter of the site. The survey shall tie directly into adjoining property.

3. Street Paving

The engineering, construction, installation, and maintenance of all streets within the Planned Residential Development shall be the sole responsibility of the developers and shall be in accord with minimum standards as set forth in the City's Subdivision and Land Development Ordinance, or by the City.

4. Street Signs and Street Lights

Street signs and street lights shall be installed and maintained by the developer as required by the City Subdivision and Land Development Ordinance, or by the City.

5. Water Requirements

If water is to be provided by means other than by private wells owned and maintained by the individual owners of lots within the Planned Residential Development, the developer shall present evidence to the City that the Planned Residential Development is to be supplied by a certified public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority, or utility.

6. Water Lines and Fire Plugs

The installation of all water lines including fireplugs shall be in accord with requirements and specifications of the local water company or authority. Detailed engineering plans and specifications shall be filed with both the City and the local water company or authority.

7. Sanitary Sewers

The installation of all sanitary sewers (if applicable) shall be in accord with plans and specifications submitted to and approved by the Department of Public Works of the City of Johnstown.

8. Storm Sewers

The installation of a storm sewer system shall be in accord with plans and specifications filed with and approved by the City. The storm sewer system shall also be compatible to or in accord with any County-wide Storm Water Management Plan. (if applicable)

9. Off-Street Parking and Loading Facilities

Shall be provided as required or permitted under this Ordinance.

SECTION 606 ENFORCEMENT AND MODIFICATION

1. To further the mutual interest of the residents of the Planned Residential Development and of the public in the preservation of the integrity of the development plan, as finally approved, and to insure that modifications, if any, in the development plan shall not impair the reasonable reliance of the said residents upon the provisions of the development plan, nor results in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the development plan as finally approved, whether those are recorded by plat, covenant, easement or otherwise shall be subject to the following provisions:
2. The provisions of the development plan relating to:
 - a. The use, bulk and location of buildings and structures;
 - b. The quantity and location of common open space, except as otherwise provided in this article; and
 - c. The intensity of use or the density of residential units; shall run in favor of the Municipality and shall be enforceable in law or in equity by the Municipality, without limitation on any powers of regulation otherwise granted the Municipality by law.
3. All provisions of the development plan shall run in favor of the residents of the Planned Residential Development but only to the extent expressly provided in the development plan and in accordance with the terms of the development plan, and to that extent said provisions, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or equity by said residents acting individually, jointly, or through an organization designated in the development plan to act on their behalf; provided, however, that no provisions of the development plan shall be implied to exist in favor of residents of the Planned Residential Development except as to those portions of the development plan which have been finally approved and have been recorded.
4. All those provisions of the development plan authorized to be enforced by the Municipality under this section may be modified, removed, or released by the Municipality, except grants or easements relating to the service or equipment of a public utility, subject to the following conditions:
 - a. No such modification, removal or release of the provisions of the development plan by the Municipality shall affect the rights of the residents of the Planned Residential Development to maintain and enforce those provisions, at law or equity, as provided in this section.
 - b. No modification, removal, or release of the provisions of the development plan by the Municipality shall be permitted except upon a finding by the Council or the planning agency, following a public hearing thereon pursuant to public notice called and held in accordance with the provisions of this article, that the same is consistent with the efficient development and preservation of the entire Planned Residential Development, does not adversely affect either the enjoyment of land abutting upon or across the street from the Planned Residential Development or the public interest, and is not granted solely to confer a special benefit upon any person.

5. Residents of the Planned Residential Development may, to the extent and in the manner expressly authorized by the provisions of the development plan, modify, remove or release their rights to enforce the provisions of the development plan but no such action shall affect the right of the Municipality to enforce the provisions of the development plan in accordance with the provisions of this section.

SECTION 607 APPLICATION FOR TENTATIVE APPROVAL

1. An application for tentative approval of the development plan for a Planned Residential Development shall be filed by or on behalf of the landowner.
2. The application for tentative approval shall be filed by the landowner on such form as provided by the Municipality.
3. All planning, zoning, and subdivision matters relating to the platting, use, and development of the Planned Residential Development and subsequent modifications of the regulations relating thereto, to the extent such modification is vested in the Municipality, shall be determined and established by Council or the planning agency, if designated by the Council.
4. The provisions shall require only such information in the application as is reasonably necessary to disclose to the Council or the planning agency:
 - a. The location, size and topography of the site and the nature of the landowner' interest in the land proposed to be developed;
 - b. The density of land use to be allocated to parts of the site to be developed;
 - c. The location and size of the common open space and the form of organization proposed to own and maintain the common open space;
 - d. The use and the approximate height, bulk, and location of buildings and other structures;
 - e. The feasibility of proposals for water supply and the disposition of sanitary waste and storm water;
 - f. The substance of covenants, grants of easements or other restrictions proposed to be imposed upon the use of the land, buildings, and structures including proposed easements or grants for public utilities;
 - g. The provisions for parking of vehicles and the location and width of proposed streets and public ways;
 - h. The required modification in the municipal land use regulations otherwise applicable to the subject property;
 - i. The feasibility of proposals for energy conservation and the effective utilization of renewable energy sources; and
 - j. In the case of development plans which call for development over a period of years, a schedule showing the proposed times within which applications for final approval of all sections of the Planned Residential Development are intended to be filed and this

schedule must be updated annually, on the anniversary of its approval, until the development is completed and accepted.

5. The application for tentative approval of a Planned Residential Development shall include a written statement by the landowner setting forth the reasons why, in his opinion, a Planned Residential Development would be in the public interest and would be consistent with the Comprehensive Plan of the Municipality.
6. The application for and tentative and final approval of a development plan for a Planned Residential Development described in this article shall be in lieu of all other procedures or approvals, otherwise required pursuant to Articles V and VI of the PA Municipalities Planning Code, Act 247 as amended.

SECTION 608 PUBLIC HEARINGS

1. Within sixty days after the filing of an application for tentative approval of a planned residential development pursuant to this Article, a public hearing pursuant to public notices on such application shall be held by Council in the manner prescribed for the enactment of an amendment to a zoning ordinance. The President of Council or, in his or her absence, the Vice-President of Council or its designated agency may administer oaths and compel the attendance of witnesses. All testimony by witnesses at any hearing shall be given under oath and every party of record at a hearing shall have the right to cross-examine adverse witnesses.
2. A verbatim record of the hearing shall be caused to be made by Council, whether or not such records are requested by any party to the proceedings, but the cost of making and transcribing such a record shall be borne by the party requesting it and the expense of copies of such records shall be borne by persons who wish to obtain such copies. All exhibits accepted in evidence shall be identified and the reason for any exclusion shall be clearly noted in the record.
3. Council may continue the hearing from time to time and may refer the matter back to the Planning Commission for a report, provided that, in any event, the public hearing or hearings shall be concluded within sixty days after the date of the first public hearing.
4. The municipality may offer a mediation option as an aid in completing proceedings authorized by this section and by subsequent sections in this article prior to final approval by Council. In exercising such an option, the municipality and mediating parties shall meet the stipulations and follow the procedures set forth in Article IX of the PA Municipalities Planning Code, Act 247 as amended.

SECTION 609 FINDINGS

1. Council, within sixty days following the conclusion of the public hearing provided for in this Article, shall, by official written communication to the landowner, either:
 - a. Grant tentative approval of the development plan as submitted;
 - b. Grant tentative approval subject to specified conditions not included in the development plan as submitted; or
 - c. Deny tentative approval of the development plan.

Failure to so act within such period shall be deemed to be a grant of tentative approval of the development plan as submitted. However, if tentative approval is granted subject to conditions,

the landowners may, within thirty days after receiving a copy of the official written communication of Council, notify Council of his or her refusal to accept all such conditions, in which case Council shall be deemed to have denied tentative approval of the development plan. If the landowner does not, within such period, notify Council of his or her refusal to accept all such conditions, tentative approval of the development plan, with all such conditions, shall stand as granted.

2. The grant or denial of tentative approval by official written communication shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth reasons for the grant, with or without conditions, or for the denial. Such communication shall set forth with particularity in what respects the development plan would or would not be in the public interest, including, but not limited to, findings of fact and conclusions on the following:
 - a. Those respects in which the development plan is or is not consistent with the Comprehensive Plan for the development of the Municipality;
 - b. The extent to which the development plan departs from the Zoning Code and Subdivision Regulations otherwise applicable to the subject property, including, but not limited to, density, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest;
 - c. The purpose, location and amount of the common open space in the planning residential development, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development;
 - d. The physical design of the development plan and the manner in which such design does or does not make adequate provision for public services, provide adequate control over vehicular traffic and further the amenities of light and air, recreation and visual enjoyment;
 - e. The relationship, beneficial or adverse, of the proposed planned residential development to the neighborhood in which it is proposed to be established; and
 - f. In the case of a development plan which proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public and of the residents of the planned residential development in the integrity of the development plan.
3. If a development plan is granted tentative approval, without or with conditions, Council may set forth in the official written communication the time within which an application for final approval of the development plan shall be filed or, in the case of a development plan which provides for development over a period of years, the periods of time within which applications for final approval of each part thereof shall be filed. Except upon the consent of the landowner, the time so established between the grant of tentative approval and an application for final approval shall be not less than three months, and, in the case of developments over a period of years, the time between applications for final approval of each part of a plan shall be not less than twelve months.

SECTION 610 STATUS OF PLAN AFTER TENTATIVE APPROVAL

1. The official written communication provided for in this Article shall be certified by the City Clerk and shall be filed in his or her office, and a certified copy shall be mailed to the landowner. Where tentative approval has been granted, the same shall be noted on the Zoning Map.
2. Tentative approval of a development plan shall not qualify a plat of a planned residential development for recording, nor authorize development or the issuance of any building permit. A development plan which has been given tentative approval as submitted, or which has been given tentative approval with conditions which have been accepted by the landowner (and provided that the landowner has not defaulted or violated any of the conditions of the tentative approval), shall not be modified, revoked or otherwise impaired by action of the Municipality pending an application for final approval without the consent of the landowner, provided that an application for final approval is filed or, in the case of development over a period of years, provided that applications are filed within the periods of time specified in the official written communication granting tentative approval.
3. If a development plan is given tentative approval and thereafter, but prior to final approval, the landowner elects to abandon such development plan and so notifies Council in writing, or if the landowner fails to file an application on time, as the case may be, the tentative approval shall be deemed to be revoked and all that portion of the area included in the development plan for which final approval has not been given shall be subject to those local ordinances otherwise applicable thereto as they may be amended from time to time, and the same shall be noted on the Zoning Map and in the records of the City Clerk.

SECTION 611 APPLICATION FOR FINAL APPROVAL

1. An application for final approval may be for all the land included in a development plan or, to the extent set forth in the tentative approval, for a section thereof. Said application shall be made to the official of the municipality designated by this Ordinance and within the time or times specified by the official written communication granting tentative approval. The application shall include any drawings, specifications, covenants, easements, performance bond, and such other requirements as may be specified by Ordinance, as well as any conditions set forth in the official written communication at the time of tentative approval. A public hearing on an application for final approval of the development plan, or part thereof, shall not be required provided the development plan, or the part thereof, submitted for final approval, is in compliance with the development plan theretofore given tentative approval and with any specified conditions attached thereto.
2. In the event the application for final approval has been filed, together with all drawings, specifications, and other documents in support thereof, and as required by the Ordinance and the official written communication of tentative approval, the Municipality shall, within 45 days of such filing, grant such development plan final approval.
3. In the event the development plan as submitted contains variations from the development plan given tentative approval, the approving body may refuse to grant final approval and shall, within 45 days from the filing of the application for final approval, so advise the landowner in writing of said refusal, setting forth in said notice the reasons why one or more of said variations are not in the public interest. In the event of such refusal, the landowner may either:
 - a. Re-file his application for final approval without the variations objected; or
 - b. File a written request with the approving body that it hold a public hearing on his application for final approval.

If the landowner wishes to take either such alternative action he may do so at any time within which he shall be entitled to apply for final approval, or within 30 additional days if the time for applying for final approval shall have already passed at the time when the landowner was advised that the development plan was not in substantial compliance. In the event the landowner shall fail to take either of these alternate actions within said time, he shall be deemed to have abandoned the development plan. Any such public hearing shall be held pursuant to public notice within 30 days after request for the hearing is made by the landowner, and the hearing shall be conducted in the manner prescribed in this Article for public hearings on applications for tentative approval. Within 30 days after the conclusion of the hearing, Council shall by official written communication either grant final approval to the development plan or deny final approval. The grant or denial of final approval of the development plan shall, in cases arising under this section, be in the form and contain the findings required for an application for tentative approval set forth in this Article.

4. A development plan, or any part thereof, which has been given final approval shall be so certified without delay by Council and shall be filed of record forthwith in the office of the Recorder of Deeds before any development shall take place in accordance therewith. Upon the filing of record of the development plan, the zoning and subdivision regulations otherwise applicable to the land included in such plan shall cease to apply thereto. Pending completion, in accordance with the time provision stated in Section 508 of the PA Municipalities Planning Code, of said Planned Residential Development or of that part thereof, as the case may be, that has been finally approved, no modification of the provisions of said development plan, or part thereof, as finally approved, shall be made except with the consent of the landowner. Upon approval of a final plat, the developer shall record the plat in accordance with the provisions of Section 513(a) of the PA Municipalities Planning Code and post financial security in accordance with Section 509 of the PA municipalities Planning Code.
5. In the event that a development plan, or a section thereof, is given final approval and thereafter the landowner shall abandon such plan or the section thereof that has been finally approved, and shall so notify the approving body in writing; or, in the event the landowner shall fail to commence and carry out the Planned Residential Development in accordance with the time provisions stated in Section 508 of the PA Municipalities Planning Code after final approval has been granted, no development or further development shall take place on the property included in the development plan until after the said property is reclassified by enactment of an amendment to the Municipal Zoning Ordinance in the manner prescribed for such amendments in Article VI of the Municipality Planning Code, Act 247, as amended

ARTICLE VII

SIGNS

SECTION 701 GENERAL PROVISIONS

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.

1. A building permit shall be required for any sign erected.
2. 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.
3. Any sign, if illuminated, shall be lighted in a manner not detrimental to any adjacent property or public right-of-way.
4. No sign, except traffic signs and other official signs, may be erected or extend onto any public street or right-of-way.
5. Any Wall/Facade signs attached to or painted on a building may protrude a maximum distance of twelve (12) 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.
6. No sign that is a part of or is supported by a building shall be erected upon the roof of such a building.
7. No signs shall be permitted which are posted, stapled or otherwise permanently attached to public utility poles or trees within the street line.
8. 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.
9. The Zoning Officer shall approve all signs and billboards erected pursuant to this Article.

SECTION 702 SIGNS IN S, R1 AND R2 DISTRICTS

In the S Conservancy District, the R1 One-Family Residence District and the R2 Two—Family Residence District, only the following exterior signs shall be permitted:

1. Signs permitted under Section 707.
2. A sign not exceeding one and one-half square feet in area, used to display and identify only the name of the individual, profession, organization, or institution occupying the premises;
3. A bulletin board for each street frontage, not exceeding Thirty square feet in area, indicating the services of a church or institution, including the church or institution name, if desired; and

4. A sign, not exceeding twelve square feet in area, unlighted, pertaining only to the rental, lease or sale of the property on which it is displayed.

SECTION 703 SIGNS IN R3 DISTRICTS

In the R3 Multiple-Family Residence District, only the following exterior signs shall be permitted:

1. Signs permitted in S, R1, and R2 Districts; and
2. A sign for each street frontage, not exceeding twelve square feet in area, in connection with a multi-family dwelling, a hospital or sanitarium, a funeral home or a tourist home, used to identify only the name of the structure.

SECTION 704 SIGNS IN TRADITIONAL NEIGHBORHOOD DISTRICTS AND ARTIST OVERLAY DISTRICT

In the Traditional neighborhood district and the Artist overlay district, only the following exterior signs shall be permitted:

1. Signs permitted in S and R Districts;
2. A sign which directs attention to a permitted business, commodity, service or entertainment conducted, sold or offered upon the premises, as follows:
 - a. Attached to the main wall of a main building, projecting not more than eighteen inches there from, and with no portion less than ten feet above the grade level. If not projecting more than three inches from a wall of a building, the sign need not conform to the height limit. The sign (or if more than one, the total) shall not exceed sixteen square feet in area
 1. Canopy and awning signs attached to and projecting from and supported from the exterior wall of a building must meet the required square footage permitted for the district.
 - b. Not attached to a building, but within the build able area of the lot (except that it may be in the front yard or a side yard abutting a street), erected with no portion less than ten feet or more than twenty feet above the ground. The sign (or if more than one, the total) shall not exceed twenty square feet in area.
 - c. A monument sign not attached to a building or pole structure that is no more than 35 square feet.
 - d. Perpendicular Signage as defined and permitted under Section 707

SECTION 705 SIGNS IN H AND C1 DISTRICTS

In the H Health Service and Medical Center District and the C1 Neighborhood Shopping District, only the following exterior signs shall be permitted:

1. Signs permitted in S and R Districts;
2. A sign which directs attention to a permitted business, commodity, service or entertainment conducted, sold or offered upon the premises, as follows:

- a. Attached to the main wall of a main building projecting not more than eighteen inches there from, and with no portion less than ten feet above the grade level. If not projecting more than three inches from a wall of a building, the sign need not conform to the height limit. The sign (or if more than one, the total) shall not exceed thirty square feet in area.
- b. Canopy and awning signs attached to and projecting from and supported from the exterior wall of a building must meet required square footage permitted for the District.
- c. Not attached to a building, but within the build able area of the lot (except that it may be in the front yard or a side yard abutting a street in a C1 District), erected with no portion less than ten feet or more than twenty feet above the ground. The sign (or if more than one, the total) shall not exceed sixty square feet in area.
- d. A ground sign, either supported by a pole or poles close to the ground with a message area not exceeding sixteen (16) square feet may be permitted, providing size and placement is such as to provide no hazard to traffic and proper sightlines. Maximum height of any pole structure shall be no more than five (5) feet from ground level.
- e. Monument signs, which are principally supported by a structure affixed to the ground and not supported by a building or pole structure, with a message area not to exceed thirty-five (35) square feet may be permitted, providing size and placement is such as to provide no hazard to traffic and proper sightlines.

SECTION 706 SIGNS IN C2, C3 AND M DISTRICTS

In the C2 Community Business District, the C3 Central Business District, the M1 Light Industrial District, the M2 Industrial Service and Distribution District and the M3 Heavy Industrial District, only the following exterior signs shall be permitted:

1. Signs permitted in the S, R, H, and C1 Districts; and
2. A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on the premises where the sign is displayed, provided that such sign shall not exceed an area, for the lettered, pictorial or sculptured matter designed to convey information, of 700 square feet.
 - a. The maximum height permitted will be thirty feet from the ground, including the base apron, supports, other structural members and the sign face itself. A minimum ten-foot clearance below the bottom of the sign is required.
3. A wall sign erected on a property exceeding sixty (60) lineal feet in frontage, but less than eighty (80) feet, may be enlarged to not more than forty-five (45) square feet for the sign or signs proposed.
4. A wall sign erected or placed on a property with a lineal frontage of eighty feet or more may be enlarged to seventy five (75) square feet for the sign or signs proposed.
5. The billboard is a minimum distance of three hundred (300) feet from the nearest residential district, church, park, school, or other public building.

6. The billboard is a minimum distance of four hundred (400) feet from the centerline of any expressway or limited access highway if the face of the sign is visible there from.
7. The billboard is at least 1,000 feet from any other existing or proposed billboard, as measured along the nearest edge of the pavement between points directly opposite the signs, and along the same side of travel.
8. Allowed within the C3 – Central Business District, Perpendicular Signage as defined and permitted under Section 707.

SECTION 707 SUPPLEMENTAL PROVISIONS

1. A permit shall be secured for the establishment, major alteration or moving of any sign (except real estate signs) one and one-half square feet or more in area.
2. No sign established before the effective date of this Zoning Code shall be, except when ordered by an authorized public officer as a safety measure, altered in any major respect or moved, unless it is made to conform to this Zoning Code.
3. In any district, signs used to indicate the location or direction of a real estate development, limited to a maximum of fifty square feet in area, and not more than one such sign on each 500 feet of street frontage, may be erected for a period of six months upon the approval of the Zoning Officer.
4. Temporary signs of mechanics, painters and other artisans, not exceeding twelve square feet in area, may be erected and maintained during the period such persons are performing work on the premises on which such signs are erected, but shall be removed promptly upon completion of the work.
5. Where a sign is permitted by any provision of this Article, such provision shall be construed to permit a double-face sign. Each face of a double-face sign may equal the maximum size for the particular type of sign permitted in this Article.
6. No sign in an S, R, or H District shall be on the roof of a building, and no sign attached to the wall of a building shall extend above the roofline or project horizontally more than twelve inches from the building wall.
7. The City Manager may authorize reasonable signs to be erected on public streets to aid motorists and pedestrians in locating such facilities as hospitals, schools, libraries, stadiums, information centers, and other public facilities. (ord. 4807 passed 7-22-98)
8. Abandoned Signs. If a conforming use has been discontinued for a total of twelve (12) months, then all signs that are related to that use-as well as any structures that support these signs-shall be known as “abandoned signs.” Likewise, if a nonconforming use has been abandoned as described then all signs that are related to that use-as well as any structures that support these signs-shall be known as “abandoned signs.” All abandoned signs shall be removed at the expense of the owner. If such a sign is not removed, the Zoning Officer shall enforce the requirements of this section via the procedure given.
9. Signs That Are Exempt From The Requirements Of This Article. The following kinds of signs are exempt from the requirements of this article:

- a. Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance;
- b. Any sign that is inside a building, not attached to a window or door, or not legible from a distance of more than 3 feet beyond the lot line of the involved lot or parcel;
- c. Works of art that do not include a commercial message;
- d. Signs on the scoreboard or outfield fence of an athletic field, within the structure;
- e. Holiday lights and decorations with no commercial message;
- f. Traffic control signs on private property such as “STOP,” “YIELD,” and similar signs, the face of which meet the Pennsylvania Department of Transportation standards and which contain no commercial message of any sort;
- g. Project identification signs are exempted from the requirements of this Article for the duration of the work for which permits have been issued if they comply with the following:
 - 1. The sign shall not exceed four feet by eight feet in size.
 - 2. The sign shall be secured so that it is not a hazard.
 - 3. There shall be one such sign per project (any subsequent project signs must comply with all provisions of this Article).

Amended: Bill 1 of 2013; 1/23/2013 Ord. No. 5119

- 10. Prohibited Signs: All signs that are not expressly permitted under this Ordinance or exempted from its regulations by Section I, Signs That Are Exempt From The Requirements Of This Article, are prohibited by the City of Johnstown. Such signs include, but are not limited to; ~~electronic message display boards~~, beacons, pennants, strings of lights that are not permanently mounted to a rigid background, inflatable signs, and tethered balloons, and sexually suggestive signs containing advertisements. Merchandise displays, signs, or any other exhibit depicting adult entertainment activities or sexually oriented businesses placed within the interior of buildings or premises shall be arranged and screened to prevent public viewing from outside such buildings or premises. No sexually suggestive signs shall contain photographs, silhouettes, drawings or pictorial representations of any kind.
- 10. Temporary Signs: Product signs of a temporary or portable nature shall only be permitted in a Commercial or Manufacturing District upon the granting of a permit. Such signs are allowed for a maximum of thirty (30) consecutive days in any calendar year and are not to exceed thirty-two (32) square feet in size.
- 11. Perpendicular Signage: Signs which are installed perpendicular to the façade of a building which are an integral part of the architectural design of the building. The signs may project over and into public ways though must be erected as secured in such a manner as to preclude their becoming a safety hazard to the public.
 - a. Minimum clearance for projecting signs (ground to bottom of sign) shall be seven (7) feet
 - b. The standard maximum area for projecting signs shall take any shape within a 864” square inches or a 3’ x 2’ area

- c. The maximum sign area shall not include the space taken by any supporting brackets (which shall have no text, graphics, or images)

Amended: Bill 1 of 2013; 1/23/2013 Ord. No. 5119

12. Electronic Message Display (EMD) Center/Screen: A Electronic Message Display sign, as described within Article II, Section 202, shall comply with the following regulations;
- a. A Electronic Message Display shall be allowed as a permitted sign within C-1, C-2, M-1, M-2, and M-3 Districts
 - b. A Electronic Message Display shall be prohibited at any location/site within the registered National Historic District(s)
 - c. A Electronic Message Display may only be used to advertise goods and/or services sold on the premises, public service announcements, meeting or event information, or the time, date, and temperature. A EMD shall not be permitted to display or promote “off-premise” advertisements.
 - d. The addition of an Electronic Message Display to any non-conforming sign is prohibited.
 - e. It shall not contain animation or any flashing, scrolling, or moving lights, text, graphics, any type of video, or visual dissolve or fading in/out.
 - f. Each message displayed must be static or depicted for a minimum of eight (8) seconds.
 - g. Each complete message must fit onto one (1) screen, i.e. no scrolling or incomplete messages shall be permitted.
 - h. All Electronic Message Display Screens are required to have automatic brightness controls keyed to ambient light levels. The maximum luminance brightness limits are 5,000 nits during daytime and 500 at night.
 - i. A Electronic Message Display shall comply with all other applicable signage regulations and requirements applicable to the Zoning District it is located within.

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 409 of this ordinance, except in C-3. Off-street parking and/or loading facilities shall be in compliance with provisions of this Ordinance as follows:

1. 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.

2. Schedule of Off-Street Parking Requirement

- a. One and Two Family Dwellings: One (1) space for each unit.
- b. Three or more Dwelling Units: 1 ½ spaces for each unit.
- c. Bowling alleys, recreation centers, public swimming pools, skating rinks, 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.
- d. Club houses and meeting places of veterans, business, civic, fraternal, labor and similar organizations: One (1) parking space for every 300 square feet of gross floor area in the auditorium, assembly hall and dining hall of such buildings plus one (1) additional space for every two (2) persons regularly employed during peak shift on the premises.
- e. Drive-in Restaurants: Five (5) per two hundred (200) square feet of floor space.
- f. Funeral Homes and Under-Taking 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) permanent seats in the establishment. One (1) parking space will be provided for every three (3) non-permanent seating arrangements (i.e. folding chairs).
- g. Hospital and Nursing Homes: One (1) parking space for each four (4) beds intended to patients, excluding bassinets, plus one (1) per two (2) employees on peak shift plus one (1) per hospital vehicle, and one (1) per doctor.
- h. 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 (250) square feet of building area used for retail or business purposes.

- i. Elementary, Junior and Senior High Schools (includes Private and Parochial Schools): One (1) parking space for every six (6) seats available at maximum capacity in the assembly hall, auditorium, stadium, or gymnasium, of greatest capacity, plus one (1) space shall be provided for each person regularly employed at such school plus (2) additional spaces for each classroom.
- j. Libraries, museums, post office, 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 one thousand (1,000) square feet of total floor area.
- k. Medical and Dental Clinics: Three (3) parking spaces for each doctor on duty during peak business hours plus one (1) additional space for every two (2) regular employees.
- l. Manufacturing/Industrial: One (1) parking space for every three (3) employees during peak period, and adequate parking/storage space for all vehicles used directly for the conduct of such industrial use.
- m. Motels and Hotels: One (1) parking space for each sleeping room offered for tourist accommodation plus one (1) space for each dwelling unit on the premises plus one (1) additional space for every five (5) persons employed by the establishment plus additional spaces as required by additional use that may generate additional parking.
- n. Offices: Three (3) parking spaces for every one thousand (1,000) square feet of office space, plus one (1) parking space for each employee.
- o. Outdoor and retail businesses: Parking or storage space for all vehicles used directly in the conduct of such business plus two (2) parking spaces for each person employed plus one (1) parking space for every five thousand (5,000) feet of lot area used for business purposes.
- p. Public Garages: Indoor or outdoor parking or storage space for all vehicles used directly in the conduct of such business plus one (1) parking space for each person regularly employed on the premises.
- q. 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 (2) stools at bar or counter, plus one (1) parking space for every two (2) employees on peak shift.
- r. 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 space for every two (2) persons employed on the premises at maximum employment on a single shift.
- s. Theaters, auditoriums, stadiums, and places of public assembly: One (1) parking space for every four (4) seats available at maximum capacity.
- t. Places of Worship: One (1) parking space for every four (4) permanent seats.
- u. Transportation Terminals: One (1) parking space for every one hundred (100) square feet of waiting room space plus one (1) additional space for every two (2) persons regularly employed on the premises during peak hours>

Amended: Bill 23 of 2013; 11/27/2013 Ord. No. 5139

- v. Senior Housing Complex, Building, or Tower: One (1) parking space for every two (2) units, plus one (1) parking space for every two (2) persons regularly employed on the premises during peak hours.
- w. Other business and Service Establishments not specifically covered herein: One (1) parking space for every two hundred (200) square feet of aggregate floor area plus sufficient space to meet the reasonable demands of the business.

3. Schedule of Loading Requirements

Every building or structure used for business, trade, or industry shall provide space as herein indicated for the loading and unloading of vehicles of f 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 any manner to obstruct or interfere with the free use of any street, alley or adjoining property. Off street loading and unloading spaces shall have a minimum as specified below. The following off-street loading and unloading space requirements of specific uses shall be provided

- a. Multiple –Story and Multi-Family: In excess of ten (10) units shall have one (1) off-street loading and unloading space of 12 ft. width and 25 ft. length for providing service to a structure.
- b. Commercial, retail, and/or manufacturing buildings: 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.
- c. Warehouse and Wholesale Storage facilities: Shall have one (1) off-street loading and unloading space for every seventy-five hundred (7,500) square feet of floor area of the building of structure.

Design and Development Standards

1. Design

The following minimum design standards for parking areas and aisles shall apply.

- a. Parking stall dimensions shall be no less than:
 - 1. Width of ten (10) feet
 - 2. Depth of twenty (20) feet
- b. Entrance and exit ways shall have a minimum width of 12 feet for each lane of traffic entering or leaving the site but shall at no time exceed 30 feet in width at the street line.
- c. All dead-end parking lots shall be designed to provide sufficient back-up area for the end stalls of the parking area.

- d. Evergreen plantings shall be provided of sufficient height and density to screen off-street parking from public street view and from adjoining residential districts. A planting plan specifying type, size, and location of existing and proposed planting material shall be submitted with the application for the permit.
- e. Entrance and exit ways and interior access ways shall be designed so as to prevent the blocking of vehicles entering or leaving the site.

2. Location

Required parking spaces shall be provided on the same lot as the building served or within five hundred (500) feet of the same lot. Parking areas shall not be designed or located so as to require or encourage cars to back into a public street in order to leave the lot.

3. Access to Adjacent Street

Access lane to a parking lot shall be minimum width of twenty (20) feet and maximum width of forty (40) feet. The minimum 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 of use 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.

4. Screening and Buffer Requirements

Whenever a parking lot abuts a public street, a structurally sound wall or planting strip shall be installed. Whenever a parking lot abuts a residential district or residential property a landscaped buffer strip a minimum width of ten (10) feet and a minimum height of six (6) feet shall be developed in a manner which will screen the parking lot from residential property or district.

5. Surfacing

All off-street parking spaces, except those accessory to a single family residential dwelling, shall be improved with a compacted base and surfaced with all-weather dustless material of adequate thickness to support the weight of fully loaded vehicles which customarily park or travel on it.

6. Lighting

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

7. Storm Drainage

Adequate storm drainage facilities shall be designated and installed in accordance with any applicable Stormwater Management Plan and/or accepted engineering practices. All surface water shall be collected and/or diverted in a manner which does not flow onto the surface of adjacent streets, sidewalks, or properties.

SECTION 802 SWIMMING POOLS

1. Private Swimming Pools

A private swimming pool in the ground or prefabricated installation above the ground shall be any pool, lake, or open tank not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than two (2) feet.

No such swimming pool shall be allowed in an R, S, H, or C Districts except as an accessory use and unless it complies with the following conditions and requirements.

- a. The pool is intended and is to be used solely for the enjoyment of the occupants of the principal use of the property on which it is located, and their guests, and no fee shall be charged.
- b. It may not be located, including any walks or paved areas or accessory structures adjacent thereto, closer than ten (10) feet in any side yard, seven (7) feet in a back yard and no structure in a front yard as defined by this ordinance.
- c. The swimming pool or the entire property on which it is located, shall be so walled or substantially fenced so as to prevent uncontrolled access by children from the street or from adjacent properties, said fence or wall to be not less than six (6) feet in height and maintained in good condition.

2. Community or Club Swimming Pools

A community or club swimming pool shall be any pool constructed by an association of property owners, or by a private club solely for use and enjoyment by members of the association or club and their families and guests of members. Community and club swimming pools shall comply with the following conditions and requirements:

- a. The pool and accessory structures thereto, including the areas used by the bathers, shall not be closer than one hundred (100) feet to any property line of the property on which it is located.
- b. The swimming pool and all of the area used by the bathers shall be so walled or fenced as to prevent uncontrolled access by children from the street or adjacent properties. The said fence or wall shall not be less than six (6) feet in height and maintained in good condition. The area surrounding the enclosure, except for the parking spaces, shall be suitably landscaped with grass, hardy shrubs and trees, and maintained in good condition. Pools shall conform to the standards and regulations of the Pennsylvania Department of Environmental Protection.

SECTION 803 STORMWATER MANAGEMENT

Any landowner and any person engaged in the alteration or development of land which may affect storm water runoff characteristics shall implement such measures consistent with the provisions of the applicable watershed storm water management plan as are reasonably necessary to prevent personal injury to health and safety, or damage to adjacent property. Such measures shall include such actions as are required:

- a. To assure that the maximum rate of storm water runoff is no greater after development than prior to development activities; or
- b. To manage the quantity, velocity and direction of resulting storm water runoff in a manner which otherwise adequately protects health and property from possible injury.

1. General Criteria

- a. The storm water management plan must consider all the storm water runoff flowing over the project site.
- b. All storm water runoff easements and detention controls shall be located and designed by a person qualified and/or experienced in the location and design of such structures.
- c. The method used in calculating storm water runoff shall be the method designated in the applicable storm water management plan, or an equal method (approved by DEP) if said plan has not been completed or adopted.
- d. Storm water roof drains and pipes shall discharge water into cisterns, french drains (where soils are suitable), sheet drains or other storm water runoff dispersion and absorption control device and not into storm sewers unless recommended in the watershed storm water plan.
- e. No discharge of toxic materials into any storm water management system is permitted.
- f. Flow velocities from any storm drain may not result in a deflection of the receiving channel.
- g. Developers are encouraged to consult the following storm water management and erosion sedimentation control publications in preparing their plans.
 1. Chapter 102. Erosion Control, Title 25, Rules and Regulations of the Department of Environmental Protection.
 2. Chapter 105. Water Obstructions and Encroachments, Title 25, Rules and Regulations of the Department of Environmental Protection.
 3. Engineering Field Manual for Conservation Practices, 1975, U.S. Department of Agriculture, Soil Conservation Service.
 4. Erosion and Sediment Control Handbook, Cambria County Conservation District.
 5. Guidelines for Storm Water Management, Department of Environmental Protection, Bureau of Dams and Waterway Management.
 6. Soil Erosion and Sedimentation Control Manual, Department of Environmental Protection, Bureau of Soil and Water Conservation and Bureau of Water Quality Management.
 7. Urban Hydrology for Small Watersheds, Technical Release No. 5086 55, Soil Conservation Service, U.S. Department of Agriculture, January, 1975.
 8. Little Conemaugh River Storm water Management Plan, Cambria County Planning Commission, Ebensburg, Pennsylvania.

2. Specific Criteria

- a. Storm water rate and quality for the specific watershed to be developed in the Municipality must be prepared as indicated in the applicable Storm Water Management Plan when completed, or its equal (approved by Department of Environmental Protection).
- b. Until such time as a municipal storm water management plan is available, a recommended method for calculating storm water runoff is included in the Appendix of this Ordinance.

- c. Erosion and Sedimentation-All activities shall be conducted in such a way as to minimize accelerated erosion and resulting sedimentation. Measures to control erosion and sedimentation shall at a minimum meet the standards of the Cambria County Conservation District and Chapter 102 (Erosion Control) of Title 25, Rules and Regulations of the Pennsylvania Department of Environmental Protection.

SECTION 804 SATELLITE DISHES, ANTENNAS

1. Satellite Dishes:
 - a. A satellite dish antenna is a permissible accessory structure in any zoning district subject to the requirements of this section, and shall require a Building Permit.
 - b. Such antennas may be installed in rear areas and shall meet all set back requirements for that district.
 - c. Installation of such antennas mounted on the ground shall have a maximum height of fifteen (15) feet and shall have a maximum diameter of ten (10) feet.
 - d. Ground mounted dishes shall be screened from adjacent properties by evergreen trees or other type of suitable screening, as identified in the Building Permit.
2. Exceptions to regulations: Any applicant may apply to the Zoning Hearing Board for a special exception regarding the height, size, or placement of a satellite dish when it is demonstrated that the present requirements are detrimental to reception.

SECTION 805 RESIDENTIAL OCCUPANCY LIMITS

All residential dwelling units, regardless the dwelling type, shall comply with following Residential Occupancy Limits:

1. The term “family” as used in this Code shall be as defined in the City of Johnstown Zoning Ordinance;
2. The City of Johnstown in following the guidelines set by the U.S. Department of Housing and Urban Development (HUD) also stipulates that no more than two (2) persons per bedroom occupancy shall be allowed;
3. In all cases, within each distinct and classified Zoning District, each independent dwelling unit shall provide habitable living floor space totaling at least eighty (80) Sq. Ft. for the first occupant and sixty (60) Sq. Ft. for each additional occupant; and
4. Within each defined Zoning District the following maximum occupancy limits shall apply:
 - a. S Conservancy District

Notwithstanding an excess of the HUD established maximum occupancy by subsection (b) and habitable living floor space over that required by subsection (c) above, all single-family dwellings in the (S) Conservancy District the maximum occupancy of a dwelling unit shall be one (1) family.

b. R-1 One-Family Residential District

Notwithstanding an excess of the HUD established maximum occupancy by subsection (b) and habitable living floor space over that required by subsection (c) above, all single-family dwellings in the R-1 One-Family Residential District the maximum occupancy of a dwelling unit shall be one (1) family.

c. R-2 Two-Family Residential District

Notwithstanding an excess of the HUD established maximum occupancy by subsection (b) and habitable living floor space over that required by subsection (c) above, all dwellings in the R-2 Two-Family Residential District the maximum occupancy of a dwelling unit shall be either:

1. One (1) family; or
2. One (1) more person than the number of bedrooms

d. R-3 Multiple Family Residential District

Notwithstanding an excess of the HUD established maximum occupancy by subsection (b) and habitable living floor space over that required by subsection (c) above, all dwellings in the R-3 Multiple-Family Residential District the maximum occupancy of a dwelling unit shall be either:

1. One (1) family; or
2. One (1) more person than the number of bedrooms

e. TND Traditional Neighborhood District

Notwithstanding an excess of the HUD established maximum occupancy by subsection (b) and habitable living floor space over that required by subsection (c) above, all dwellings in the TND Traditional Neighborhood District the maximum occupancy of a dwelling unit shall be either:

1. One (1) family; or
2. One (1) more person than the number of bedrooms

f. H Health Service & Medical Center District

Notwithstanding an excess of the HUD established maximum occupancy by subsection (b) and habitable living floor space over that required by subsection (c) above, all dwellings in the H Health Service & Medical Center District the maximum occupancy of a dwelling unit shall be either:

1. One (1) family; or
2. One (1) more person than the number of bedrooms

g. C-1 Neighborhood Shopping District, C-2 Community Business District, and C-3 Central Business District

Notwithstanding an excess of the HUD established maximum occupancy by subsection (b) and habitable living floor space over that required by subsection (c) above, all dwellings in the above mentioned zoning districts (C-1, C-2, and C-3) the maximum occupancy for each dwelling unit will be determined by the type of structure as defined by Article II, Section 202 of the City of Johnstown Zoning Ordinance.

SECTION 806 STANDARDS FOR STOREFRONTS AND WINDOWS

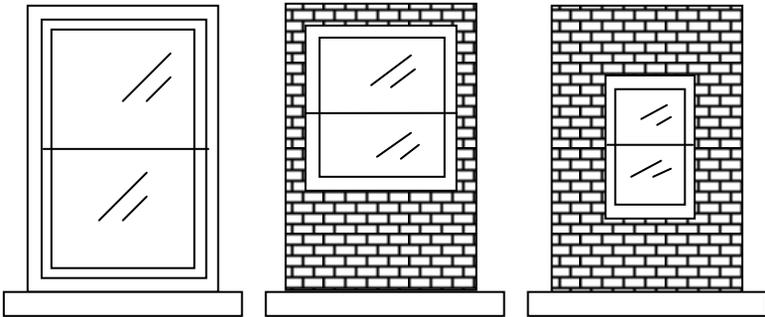
These regulations are intended and enacted to provide for the protection, preservation, and enhancement of architectural, historical, or cultural buildings, structures, and sites located within the C3 - Central Business District and the Downtown Johnstown Historic District. Being that the windows, doors, and storefronts of a building are the primary architectural and character-defining features of a downtown this ordinance applies specifically to the repair, replacement, condition, and maintenance of a building or structure’s windows, doors, and storefronts. The establishment and enforcement of this ordinance is to provide for the;

- 1. Preservation and value of the existing buildings located in the City of Johnstown Central Business District and/or Downtown Johnstown Historic District;
- 2. Provide the use of historic-cultural landmarks for the education, pleasure, and welfare of the community;
- 3. Protect and enhance the appeal and attraction of the City of Johnstown to its residence, visitors, tourists, and to serve as a support and stimulus to business and industry; and
- 4. Fostering of civic pride in the beauty and the notable accomplishments, architecture, and history of the City of Johnstown’s past.

Windows

The following regulations and restrictions shall apply to all windows located on any building’s street-side façade within the Central Business District and/or the Downtown Johnstown Historic District.

- 1. When repairing and/or replacing a building’s window(s) it should be done in a matching historical manner without altering/enlarging the original opening or cutting new openings. The replacement windows shall be of the same size, shape, and configuration of the window it replaces.



THIS

NOT THIS

OR THIS

2. Broken windows shall be repaired or replaced in a reasonable period of time, not to exceed forty five (45) days. If said repairs are not made within a timely manner, the City of Johnstown will levy the appropriate fines, as listed within City Hall - Room 205, upon the applicable property and property owner(s).
3. Windows will not be permitted to be permanently replaced and/or filled in with wood, brick, concrete, or any other materials. Window openings/frames will be permitted to be covered by a wood surfacing as a temporary security precaution until the window is repaired and/or replaced within the above mentioned forty five (45) day period.
4. Windows which have been blocked or screened by wood, brick, concrete, or any other construction materials are to be reopened to re-establish the intent of the original building façade. In the event the blocked and screened window openings cannot be replaced due to a structural concern it will be the property owner's responsibility to develop an alternative agreement with the City of Johnstown.
5. Basement windows may have security grills installed; on non-street visible elevations of a building, the basement windows may be closed or filled with glass block.

Storefront Doors and Windows

The following regulations and restrictions shall apply all commercial and retail property storefronts as well as entrances of residential buildings located within the Central Business District and the Downtown Johnstown Historic District with a street-side façade.

1. A commercial or retail building's original and/or existing storefront shall be retained, repaired, and rehabilitated whenever possible as to taking advantage of their distinctive and attractive appearance, large display areas, and abundance of natural light.
2. When rehabilitating or remodeling a storefront the use of new concrete block, concrete imitations, aluminum or other types of siding, mill finished aluminum, or other artificial materials are not permitted.
3. Existing historical doors shall be retained and rehabilitated whenever feasible. When doors and/or doorways must be altered they shall be designed to respect the exterior architectural integrity of the building.
4. The use and installation of storm doors and/or screen doors may be permitted on the front or side façade of a building pending the said door has matching frame or complements the color scheme of the building and does not obscure significant features of the door it covers.
5. Storefront doors and windows must be maintained as follows;
 - a. All Central Business District and/or Downtown Johnstown Historic District storefronts doors and windows must be kept clean of obvious dirt, grime, bird dropping, graffiti, etc.
 - b. No trash, debris, crates, cardboard boxes, or other packing materials may be stacked or stored in any storefront window.
 - c. The storefront windows of any vacant property, to be defined as absent of commercial/retail activity of more than forty five (45) days, shall be covered with

seamless paper of a neutral color as to obscuring public view of the interior of the building. These window coverings must be kept in good repair and shall not be torn, damaged, or otherwise left in a state of disrepair.

1. As a suggested alternative, the property owner may have the vacant storefront windows covered with decorative art. This artwork shall be approved and commissioned by the City of Johnstown and various local partnerships.
2. The commissioned artwork shall contain no suggestive, inappropriate, religious, political, or advertisements value.

ARTICLE IX

SPECIAL EXCEPTIONS

The special exceptions listed in this Ordinance and their accessory buildings and uses may be permitted by the Zoning Hearing Board in the districts indicated therein, in accordance with the procedures, standards, and criteria set forth in this Article and Article XIII (Zoning Hearing Board).

SECTION 901 GENERAL PROCEDURES

An application for special exception filed with the Zoning Officer shall be referred to the Zoning Hearing Board for investigation as to the manner in which the proposed location and character of the special exception will affect the community and how the required standards are to be achieved.

The Zoning Hearing Board shall conduct a public hearing on the appeal under Section 1303 (Hearings) of Article XIII, and in accordance with Public Notice requirements defined in Article II, Section 202, both of this Ordinance.

If the proposed Special Exception is located in the district wherein such use may be granted or denied by the Zoning Hearing Board pursuant to express standards and criteria, the Board shall hear and decide requests for such Special Exceptions in accordance with such standards and criteria. In addition, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes of the zoning ordinance.

The applicant may then apply to the Zoning Officer for building and occupancy permits in accordance with the procedures specified in this ordinance.

Any expansion of such Special Exception involving the enlargement of the buildings, structures, or land area shall be subject to the procedure described in this section.

SECTION 902 FUNERAL HOME STANDARDS AND CRITERIA

1. Special Exception:

A Funeral Home may be permitted as a special exception in R-1, R-2, and R-3 Residential Districts with the minimum requirements as hereinafter set forth.

2. Height:

As permitted in each District.

3. Percentage of Lot Coverage:

As permitted in each District.

4. Off-Street Parking Facilities:

As required under Article VIII.

5. Site Plan:

As required under Article IV, Section 409.

6. Yard Areas:

As required in each District.

SECTION 903 BOARDING HOUSE AND HALFWAY HOUSE STANDARDS AND CRITERIA

A Boarding House or Halfway House may be permitted as a Special Exception in an R3 District provided it complies with all zoning and occupancy requirements of a dwelling in the R3 District.

1. Parking Requirements: One parking space for each sleeping room to be occupied by boarders plus one space for each dwelling unit on the premises, plus one space for every two employees not living on the premises.

SECTION 904 MOBILE HOME PARK STANDARDS AND CRITERIA

1. Special Exception:

A Mobile Home Park may be permitted as a special exception in the R-3 Residential District with the minimum requirements as hereinafter set forth. No Mobile Home Park shall be located or constructed in a manner or at a location inconsistent with the Municipal Flood Plain Ordinance or the Flood Plain provisions of this Ordinance.

2. Setbacks:

All mobile homes shall be located at least fifty (50) feet from any Mobile Home Park boundary line abutting upon a public street or highway and at least twenty-five (25) feet from other park property boundary lines. There shall be a minimum distance of twenty (20) feet between the mobile home foundation and the abutting street.

3. Lot Area:

The minimum area for every Mobile Home Park hereafter developed shall be five (5) acres.

4. Plot Plan:

Each application shall be accompanied by three copies of a plot plan drawn at a scale of one inch equals twenty feet, prepared by a Pennsylvania licensed surveyor, engineer, architect, or landscape architect showing limits and square footage of the proposed Mobile Home Park and location and size of driveways, parking areas, playgrounds, service buildings, other buildings, mobile home lots, together with required setbacks from right-of-ways and property lines. All mobile home lots shall be numbered in sequence on the plot plan.

5. Density:

Density in any Mobile Home Park shall not exceed seven (7) units per gross acre.

6. Minimum Width of Mobile Home Lots:

The minimum width of each mobile home lot shall be thirty-five (35) feet.

7. Minimum Distance Between Mobile Homes:

No mobile home shall be placed within twenty (20) feet of another; provided that with respect to mobile homes parked end-to-end, the distance between mobile homes so parked shall not be less than fifteen (15) feet.

8. Mobile Home Stands:

The area of mobile home stand shall be improved to provide adequate support for the placement and tie-down of the mobile home, thereby securing the superstructure against uplift, sliding, rotation, and overturning.

9. Markers:

Every mobile home lot shall be clearly defined on the ground by permanent markers. There shall be posted and maintained in a conspicuous place on each lot a number corresponding to the number of each lot as shown on the plot plan.

10. Streets and Driveway:

The street or driveway on which an individual mobile home lot fronts shall be not less than twenty-eight (28) feet in width. In cases where driveways dead-end, there shall be constructed at each dead-end a cul-de-sac with a minimum turning radius of forty (40) feet. All streets and driveways shall be paved in accordance with standards and specifications required for Local Streets in the City Subdivision Regulations or other City requirements. All construction material for such roads shall meet established City requirements. Where any Mobile Home Park has an entrance from a state highway, approval of said entrance from the State Department of Transportation must be secured before said development is approved.

11. Water and Sewer Facilities

An adequate supply of water approved by the PA Department of Environmental Protection shall be furnished from a public water supply system or from a private water system conforming to all applicable laws, regulations, resolutions, and ordinances, with supply faucets located on each mobile home lot. In each Mobile Home Park, all waste water from a faucet, toilet, tub, shower, sink, drain, washing machine, garbage disposal unit, or laundry shall empty into an approved sewer system installed in accordance with State and City regulations.

12. Service Buildings

- a. All service buildings shall be adequately lighted at all times of day and night, shall be well ventilated, shall be constructed of such moisture-proof material, including painted woodwork, as shall permit repeated cleaning and washing and shall be maintained at a temperature of not less than sixty-eight (68) degrees Fahrenheit during the period from October first to May first.
- b. All service buildings and grounds of the park shall be maintained in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public or constitute a nuisance or fire hazard.

13. Storage Tanks

Gasoline, liquefied petroleum, gas, or oil storage tanks shall be so installed as to comply with all County, State, and National Fire Prevention Code Regulations.

14. Recreation Area

Mobile home developments that accommodate 25 or more mobile homes should be provided with at least one accessible recreation area not less than five percent (5%) of the site's useable area.

15. Additions to Mobile Homes

No permanent or semi-permanent structures shall be attached to any mobile home as an addition to such mobile home. No accessory structure shall be permitted on any mobile home lot or in any Mobile Home Park. The prohibition herein against any addition or accessory to a mobile home shall not apply to a canopy or awning designed for use with a mobile home. The mobile home or lot coverage of a mobile home shall not exceed forty percent (40%) of the total mobile home lot area.

16. Landscaping

The Developer of a Mobile Home Park area shall provide a minimum of two (2) deciduous trees per mobile home. Tree caliber shall not be less than 2-1/2"-3".

SECTION 905 CERTAIN PRE-EXISTING NON-CONFORMING USES

If a non-conforming use in an existing structure has been discontinued for a period in excess of twelve (12) months as noted in Section 1101, a Special Exception may be granted if all of the following are found to apply:

1. The proposed use shall not pose a conflict with existing adjacent permitted uses in the district.
2. The structure in question has been determined to have been designed for the type of use included in the application for a Special Exception, and conversion to a permitted use has been determined to be not feasible.
3. The application does not request a Special Exception for a nonconforming use on a lot presently vacant.

SECTION 906 TEMPORARY BUILDINGS

For a temporary building for commerce or industry in a Residential District where such building is incidental to the residential development, such permit to be issued for a period of not more than one year.

SECTION 907 GAS REGULATOR, ELECTRIC STATIONS, GREENHOUSES, AND HORTICULTURAL

In the S District, for the erection, alteration, enlargement or use of a structure or land on a substandard lot or record for:

1. A gas regulator station or electric substation without rotary motors. If transformers are exposed, there shall be provided an enclosing fence or wall at least six feet high and adequate to obstruct view, noise and passage of persons or material. The requirement for approval of these public

utility uses as conditional uses under Section 1013 may be waived if the Board secures a favorable written report thereon from the Planning Commission.

2. A greenhouse (without sales or advertising of sales on the premises); and
3. A horticultural nursery (without sales or advertising of sales on the premises);

The uses set forth above in Section 907 hereof may be permitted, provided the following criteria are followed:

1. The maximum height of structures shall be fifteen feet (not exceeding one story).
2. The Board determines that circumstances are such that combinations of such lot with other adjacent property to form one or more zoning lots cannot reasonably be expected and that otherwise the provisions of this Zoning Code would be confiscatory.
3. Other reasonable conditions are established to protect the amenities of surrounding properties, as determined in each instance by the Board.

SECTION 908 COMMUNITY GARAGES OR PARKING AREAS

Community garages or parking areas, as defined in Article II; Section 202, shall be permitted as a Special Exception in S Conservancy, R Residential, C Commercial, H Health Service, and M Industrial Districts as subject to the standards and criteria found in Section 801 of this Ordinance.

SECTION 909 ONE-FAMILY DWELLINGS AND INSUFFICIENT LOT SIZE

One-family dwellings on a recorded lot insufficient in size to meet the area requirements shall be permitted as a Special Exception in all R Residential Districts subject to the following standards:

1. A one-family dwelling on a recorded lot insufficient in size to meet the requirements for a one-family dwelling and/or to provide a build able area of the lot twenty-five feet wide and thirty feet deep, provided that the lot is a separate lot in a subdivision plat recorded prior to the effective date of this Zoning Code and fronts upon a public street or a street in an approved plan of land subdivision; that a majority of the properties within the same block frontage, on both sides of the street, are improved with dwellings on lots of similar or smaller size; that rear yards and side yards may be reduced in accordance with the provisions for such yard reductions on substandard lots of record in an R1 District, as set forth in Section 502 and in R2 and R3 Districts, as set forth in Sections 503 and 504; and that the Board finds that the erection of the proposed dwelling is in accordance with the character of the neighborhood and would not be detrimental to surrounding properties.

SECTION 910 ONE-FAMILY DWELLINGS WITHOUT SPACE FOR OFF-STREET PARKING

One-family dwellings on a zoning lot that does not have the required automobile off-street parking space shall be permitted as a Special Exception in all R Residential Districts when the Board is satisfied that physical conditions make it impossible to provide parking space on such zoning lot.

SECTION 911 MEMBERSHIP CLUBS

Membership clubs shall be permitted as a Special Exception in R-3 Residential Districts, provided that neither public restaurant nor bar facilities are established, and provided, further, that the Board determines that the time of operation and the intensity of the use will be not disturbing to adjacent residential uses.

SECTION 912 BED AND BREAKFASTS

Bed and Breakfast establishments shall be permitted as a Special Exception in all Districts, provided that only overnight accommodations for not more than five transient guests are offered, and provided, further, that off street parking shall be provided in R1 and R2 Districts.

SECTION 913 DWELLING UNITS ON SECOND STORY OF BUILDINGS

Dwelling units on the second story of business establishments shall be permitted as a Special Exception in C-1 and C-2 Commercial Districts subject to the following standards:

1. Within the building there may be not more than one dwelling unit for each 1,500 square feet of space on the ground floor.
2. Dwelling units shall be only on the second floor.
3. There shall be private entrances from the street, each of which serves not more than four such units.
4. Light, air, and ventilation for reasonable protection of the residents of each dwelling unit shall be permanently assured.
5. If such dwelling units are in a building exceeding two stories in height, the Board shall be satisfied that the dwelling units are reasonably insulated and protected from adverse effects of commercial uses on higher floors.
6. In each instance, the Board shall determine that the intended mixture of uses will not be detrimental to the safety and general welfare of the residents.

SECTION 914 ENLARGEMENT OF NON-CONFORMING RESIDENTIAL, COMMERCIAL OR INDUSTRIAL STRUCTURES

In R, C and M Districts, for the enlargement of a nonconforming commercial or industrial structure and for the extension of a non-conforming use throughout such structure, provided that:

1. In a residential area the floor area of the enlargement shall not exceed twenty-five percent of the floor area of the non-conforming structure, or non-conforming portion thereof, on the effective date of this Zoning Code, or any amending ordinance that later makes such structure, or portion thereof, non-conforming.
2. In a commercial or industrial area the floor area of the enlargement shall not exceed fifty percent of the floor area of the non-conforming structure, or non-conforming portion thereof, on the effective date of this Zoning Code, or any amending ordinance that later makes such structure or portion thereof, non-conforming.
3. It shall be demonstrated to the satisfaction of the Board that such extension or enlargement is reasonably necessary at the concerned location because of normal growth of business and that it

would be an unreasonable hardship on the applicant to provide for such business growth in a district where the concerned use and structure are permitted.

4. All other applicable regulations and requirements of this Zoning Code shall be complied with.
5. The Board shall impose such conditions and safeguards as it deems necessary in order to protect adjacent conforming areas and structures against the adverse effects of such non-conformity.

SECTION 915 EXCLUSION FROM QUALIFICATIONS

Exclusion from certain qualifications shall be permitted as a Special Exception in the M1 Industrial District subject to the following standards:

1. For the erection, alteration, enlargement or use of a building or land for any of the permitted uses listed in Section 510, when not completely complying with the qualifications of paragraphs (a) (1) and (2) of such section, provided that it is demonstrated to the Board by competent technical experts that there will be made such use of special safety devices and advanced technical equipment and processes so as to no longer justify exclusion of the uses from the stated District on the basis of failure to comply completely with such qualifying conditions.

SECTION 916 EXCLUSION FROM HEIGHT REQUIREMENTS

Exclusion from height requirements shall be permitted as a Special Exception in the M-1 Industrial District for the erection of a structure, to a reasonable height above the District requirements, provided that the Board, upon statements by competent experts, determines such excess height to be necessary for the operation of the particular use at the concerned location.

SECTION 917 EDUCATIONAL OR COUNCILING INSTITUTIONS

An educational or counseling institution shall be permitted as a Special Exemption in an C-3 Central Business District or H Health Service District provided that;

1. The institution maintains a licensed and certified staff; and
2. All provided educational and counseling services comply with any applicable State or Federal regulations pertaining to each said service.

ARTICLE X

SECTION 1001 CONDITIONAL USES

The uses named in this Article and the establishment or enlargement thereof shall be considered conditional uses which cannot be adjusted to their environments with a maximum of mutual protection by a rigid application of the district regulations of this Zoning Code which apply uniformly and in detail to the great majority of properties within any particular district. They may be permitted in the districts herein designated by Council after a public hearing, report, and recommendation by the Planning Commission, subject to:

1. Approval of a site plan and location;
2. Such other conditions and safeguards that the Planning Commission may recommend and that Council may impose to protect the best interests of the surrounding property or neighborhood.

SECTION 1002 APARTMENT BUILDINGS

Apartment buildings may be permitted in the C3 District, provided that reasonable conditions and safeguards are established for the safety and general welfare of the residents, including, where considered advisable, limitations on the operation of first floor commercial uses.

SECTION 1003 CEMETERIES

A cemetery, including a crematorium, may be permitted in the S District, provided that yard and open space requirements are as approved by Council to prevent injury to, and to afford future protection to, adjacent properties and interests as these may be affected.

SECTION 1004 DRIVE-IN THEATERS

A drive-in theater may be permitted in the C2 District, provided that:

1. Automobile storage facilities are provided between ticket gates and the highway at the rate of thirty-five percent of theater capacity. No other automobile parking facilities under the provisions of Section 801 shall be required.
2. There shall be no structure, other than an enclosure fence, within fifty feet of any site boundary line, and the theater screen shall be located not less than 100 feet from any national or State highway or property in an R or H District and shall not face such highway or property, unless the face of the screen is not visible because of natural or artificial barriers.
3. The height of the theater screen shall not exceed 100 feet.
4. There shall be individual car sound speakers, but low volume horns may supply sound to refreshment stands and other service areas.
5. There may be accessory uses and structures incident to the theater operation (including refreshment stands and toilet facilities), provided that they serve only the patrons within the theater enclosure.

SECTION 1005 EDUCATIONAL, PHILANTHROPIC, AND RELIGIOUS INSTITUTIONS

An educational institution, or unit group buildings thereof, in R Districts; a philanthropic institution, or unit group buildings thereof, in R, C2, and C3 Districts; or a religious institution, or unit group buildings thereof, in R, H, C2 and C3 Districts, may be permitted, provided that:

1. The height requirements of the district wherein the use is located may be exceeded if every portion of the building above the height limit *is* at least as many feet distant from lot lines as that portion of the building is in height.
2. The minimum distance between main buildings in a unit group on the zoning lot is as follows:
 - a. Front-to-front, front-to-rear or rear-to-rear, two times the height of the buildings, or if they are of different heights, two times the height of the taller building, but not less than eighty feet;
 - b. End-to-end, equal to the height of the buildings, or if they are of different heights, equal to the height of the taller building, but not less than twenty feet; or
 - c. Front-to-end or rear-to-end, one and one-half times the height of the buildings, or if they are of different heights, one and one-half times the height of the taller building, but not less than fifty feet.
3. If housing in connection therewith is provided, including dormitory facilities for students and teachers, the lot area in relation to the number of sleeping rooms or persons to be housed is such as to provide a unit density commensurate with that permitted on surrounding properties.
4. The location of automobile parking facilities on the site is such as to provide maximum protection and facilitate traffic movement on abutting streets.
5. Minimum front and rear yards shall be ten feet greater in depth, and minimum side yards shall be ten feet greater in width, than the minimum required for any other main structure in the district in which such use is located.

SECTION 1006 GARBAGE DISPOSAL PLANTS

A garbage or refuse disposal plant may be permitted in the M3 District, provided that the proposed location is such as to offer a reasonable protection to the neighborhood against possible detrimental effects of such use, taking into consideration the physical relationship to surrounding properties and access to the site, including any nearby residential streets that must be traversed in bringing the material to the site.

SECTION 1007 GOVERNMENTAL USES OR STRUCTURES

A government use or structure (Federal, State, or local) may be permitted in any district, provided that:

1. When in an S District, it is demonstrated that the use cannot reasonably serve the community from a location in another district classification.
2. Safeguards are established to provide proper separation from the protection for abutting residential properties.

3. Adequate provision for off-street parking is provided, as determined according to the type of use and its planned service area.
4. Where possible, the time of operation and the intensity of the use shall be regulated so as to be not disturbing to adjacent residential uses.

SECTION 1008 HOSPITALS, SANITARIUMS, AND NURSING HOMES

A hospital, sanitarium, or nursing home, or unit group buildings thereof, may be permitted in R3 and H Districts, provided that the use conforms to Section 1005 (1), (2), (4), and (5).

SECTION 1009 MAJOR EXCAVATING, GRADING OR FILLING

Major excavating, grading or filling, as defined in Section 202, may be permitted in any District, provided that:

1. Evidence is submitted as to the control of the operation in such a manner as to offer reasonable protection to the neighborhood against possible detrimental effects, taking into consideration the physical relationship to surrounding properties and access to the site, including any nearby residential streets that must be traversed in conveying material to and from the site.
2. Upon completion of the operation, any exposed surface of the land shall be top soiled, planted, and seeded.
3. Strip or other mining of coal or other minerals, excavating of sand or rock and the crushing of rock, sanitary and other fills, drilling for gas or oil, recovery of metal or natural resources and similar operations may be carried on in an S District only.

SECTION 1010 MEDICAL BUILDINGS

A medical building for certain uses auxiliary to a hospital, or the location of such uses within a hospital building, may be permitted in R3 and H Districts, provided that:

1. The uses shall be limited to the following, and only on the condition that such uses are auxiliary to a hospital: automobile parking facilities; barber shops; beauty parlors; drug stores; flower shops; gift shops; medical offices; and restaurants (in connection with which there is no serving of intoxicating beverages)
2. If separate, the building shall be an adjunct to and located on property with an area of not less than 10,000 square feet, owned by or controlled under agreement with the hospital, and separated from the main hospital building only by other property of such hospital, with or without a Street intervening.
3. Direct entrance to any use other than parking shall be only from inside the building.
4. There shall be no display of merchandise visible from outside the building.
5. The use shall conform to Section 1005 (1), (4) and (5).

SECTION 1011 MOTOR FREIGHT TERMINALS

A motor freight terminal for freight trucking companies and operators, including interchange and storage facilities, may be permitted in M1 and M2 Districts, provided that:

1. Every portion of the property used for terminal purposes shall be located not closer than 100 feet to any property in an R or H District.
2. Access for motor freight vehicles shall be by way of streets of adequate width as determined by the Planning Commission, after a recommendation from that department of the City charged with public safety.
3. The site shall be fully enclosed with a barrier adequate to ensure that no portion of a vehicle shall extend beyond the lot line.
4. In addition to adequate area within the site for docking, manipulation and maneuvering of motor freight vehicles, a reservoir of parking area for motor freight vehicles waiting to be loaded or unloaded shall be provided at the rate of one parking space sufficient to park a motor freight vehicle for every four loading or unloading docks.
5. The site shall be designed in such a manner as to permit forward movement of all vehicles both upon entering and upon leaving the site.
6. The number, location and width of entrances to and exits from the site shall be determined by the Commission after a recommendation from that department of the City charged with public safety.

SECTION 1012 NON-PROFIT RECREATION AREAS

A non-profit recreation area may be permitted in R Districts, provided that:

1. It is determined that such use is reasonable, necessary and essential for the public convenience or welfare and is not seriously detrimental to the character of the neighborhood.
2. A permit therefore shall be issued for a period of not longer than three years and shall be renewable at the discretion of Council.
3. Safeguards are established with respect to sanitation and general safety.
4. If required by Council, fences and enclosures shall be erected, in conformity with Section 417, or other treatment of the lot shall be provided.

SECTION 1013 PUBLIC UTILITY CORPORATION USES

Public utility corporation buildings, structures, facilities, and installations may be permitted in any district, provided that:

1. The height requirements of the district wherein the use is located may be exceeded when the necessity has been demonstrated, if every portion of the structure or installation above the height limit is at least as many feet distant from bordering or opposite properties as that portion of the structure or installation is in height.
2. When in an S District, the use shall not involve company offices.
3. When in a R or H District, the use shall not involve company offices or storage areas or structures requiring major trucking or traffic movements, and it is demonstrated that the use cannot reasonably serve the district from a location in an S, C, or M District.

4. When in a C District, the use shall not involve storage areas or structures requiring major traffic movements.

SECTION 1014 RETAIL STORES

A retail store, as permitted in the C1 District, exceeding a floor area of 5,000 square feet, may be permitted, provided that:

1. There shall be submitted with the application a market analysis of the potential service area, prepared by an individual or organization indicated by documentary evidence as qualified to make such an analysis.
2. The Planning Commission shall determine that the proposed use is related to its potential service area and is in keeping with principles of the Commission's adopted Comprehensive Plan.

SECTION 1015 UNIT GROUP RESIDENTIAL DEVELOPMENT

Unit group residential development may be permitted in R and H Districts, provided that:

1. The use shall be on a zoning lot of not less than two acres.
2. The minimum distance between main buildings in such unit group development shall be such as to provide spacing equivalent to the minimum that would be provided by application of the yard requirements only, if each building were placed on a separate zoning lot.
3. The residential uses shall be limited to those permitted in the particular district.
4. Submission of a traffic study and analysis as to the impact on the expansion on the neighborhood may be required.

SECTION 1016 PROCEDURE FOR APPROVAL

1. Written application for the approval of conditional uses referred to in this Article shall be filed in the public office of City Council upon forms prescribed for that purpose by Council. Upon the filing of such application, the matter shall be set for a public hearing before the Council. Notice of the time, place and purpose of such hearing shall be given in the same manner as required by the Public Notice Requirements of this Ordinance.
2. Prior to the public hearing, the Planning Commission shall make its written findings and determinations within forty (40) days from the date of filing an application and shall forthwith transmit a copy thereof to Council and to the applicant.
3. Council shall conduct the public hearing within 60 days from the date of the applicant's request for a hearing.
4. Council shall render a written decision or, when no decision is called for; make written findings on the conditional use application within 45 days after the last hearing before the Council. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefore. Conclusions based on any provisions of this ordinance, rule, or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in light of the facts found.

5. If Council fails to render the decision within the period required by this section or fails to hold the required hearing within 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 or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of Council to meet or render a decision as herein-above provided, Council shall give public notice of the decision within ten days from the last day it could have met to render a decision in the same manner as required by the public notice requirements of this Ordinance. If Council shall fail to provide such notice, the applicant may do so.
6. A fee shall be paid upon the filing of each application for a conditional use to defray the cost of processing. The amount of such fee shall be fifty dollars (\$50.00).
7. Any modification of a conditional use, either by a change in the site plan or by a division of the site on the basis of ownership, shall be made by following the same procedure set forth in subsections A through F hereof.

ARTICLE XI

NON-CONFORMING USES AND BUILDINGS

SECTION 1101 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. If no structural alterations are made which expand the footprint or height, a non-conforming use of a building may be changed to another non-conforming use of the same or more restricted classification. Whenever a non-conforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted one. Whenever the use of a building becomes non-conforming through a change in the Zoning Ordinance or district boundaries, such use may be continued and if no structural alterations are made which expand the footprint or height, it may be changed to another nonconforming use of the same or of a more restricted classification.

SECTION 1102 DISCONTINUANCE OF USE

Whenever a non-conforming use of a property, building, sign or part thereof has been discontinued for a period of twelve (12) consecutive months, said non-conformance use shall be presumed to be abandoned and the use of the premises thereafter shall be in conformance with the regulations of the district. A property may be continued as a non-conforming use beyond the 12-month period if it is properly registered with the Zoning Officer. This extension of time shall not exceed an additional 12 months.

In cases where no enclosed building is involved, whenever, a non-conforming use of said lot has been discontinued for a period of six (6) consecutive months, said non-conformance use shall be presumed to be abandoned and the use of the premises thereafter shall be in conformance with the regulations of the district.

SECTION 1103 ALTERATIONS

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten (10) percent of the current replacement cost of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased.

If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

SECTION 1104 PROVISIONS FOR RECONSTRUCTION

Any building or structure containing a non-conforming use which is damaged by fire, flood, wind, or other act of God or man to the extent of fifty (50) percent or more of its fair market value immediately prior to damage shall not be repaired or reconstructed except in conformity with the regulations of the district in which it is located. In the event that the Zoning Officer's estimate of the extent of damage is not acceptable to the applicant for the building permit to repair or reconstruct such building or structure, the applicant may appeal to the Zoning Hearing Board.

SECTION 1105 REGISTRATION

The Zoning Officer is hereby authorized and directed to identify and register non-conforming uses and non-conforming structures in the City, together with reasons why the Zoning Officer identified them as non-conformities.

ARTICLE XII

ADMINISTRATION AND ENFORCEMENT

SECTION 1201 ZONING OFFICER

1. Zoning Enforcement

A Zoning Officer shall be appointed by the City to administer and enforce this Zoning Ordinance. The Zoning Officer shall not hold any elective office in the City.

2. 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 or she 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:

- a. Receive appeals and applications for conditional uses, special exceptions and variances, and forward them to City Council or the Zoning Hearing Board, as appropriate. Schedule, advertise and post notices on property subject to a Zoning Hearing Board hearing at least one week prior to the hearing. In addition, post a notice on the affected tract or area involved with a zoning map amendment as described in the PA Municipalities Planning Code section 609 (b) at least one week prior to the hearing. Provide testimony at hearings of the Zoning Board.
- b. Issue permits only where there is compliance with the provisions of this Zoning Ordinance. Permits for construction or uses requiring a special exception or variance shall be issued only upon order of the Zoning Hearing Board. Permits requiring a conditional use shall be issued only upon order of the City Council.
- c. When required by the Zoning Ordinance, identify and register non-conforming uses and structures and record the reasons.
- d. Conduct inspections and surveys as prescribed by City Council or ordinance to determine compliance or non-compliance with the terms of the Zoning Ordinance.
- e. Issue enforcement notices and orders in writing by certified or registered mail or served personally upon persons, firms, or corporations deemed by the Zoning Officer to be violating the terms of the Ordinance directing them to correct all conditions found in violation. If any such person or persons does not comply with the written notice of violation within a prescribed period of time, the Zoning Officer shall file a civil complaint with the district justice.
- f. Act on behalf, with approval of the City, in any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, demolition, maintenance or use of any building or structure, to restrain, correct, or abate such violation, so as to prevent the occupancy or use of any building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.
- g. Revoke by order a building or zoning certificate issued under a mistake of fact or contrary to the law or the provisions of the ordinance.

- h. Record and file all applications and plans for permits and the action taken thereon. All applications, plans, and documents shall be a public record.
 - i. Maintain a map or maps showing the current zoning districts and overlay areas for all the land within the City. Upon request, the Zoning Officer shall make determinations of any zoning map district boundary question. Such determination may be appealed to the Zoning Hearing Board.
 - j. Upon the request of City Council, Planning Commission, or Zoning Hearing Board, present facts, records or information to assist them in making decisions.
3. 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 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.

The violation notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive violation notices regarding that parcel, and to any other person requested in writing by the owner of record. The violation notice shall include at least the following information:

- a. Name of the owner of record and any other person against whom the City intends to take action;
- b. Location of the property in violation;
- c. Specific violation(s) with a description of the requirements, which have not been met, referring to applicable provisions of the Zoning Ordinance.
- d. Date before which the steps for compliance must be commenced and the date before which the steps must be completed;
- e. Rights of appeal to the Zoning Hearing Board and prescribed appeal time period of the recipient according to the Zoning Ordinance; and
- f. Notice that failure to comply within the time period, unless extended by the Zoning Hearing Board, constitutes a violation, and possible sanctions are clearly described.

SECTION 1202 BUILDING PERMIT

No building, structure, or sign shall be erected, constructed, moved, added to, repaired or structurally altered, nor shall land be put to any use without a permit 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. The painting of structures does not require a building permit.

- 1. Form of Application

All applications shall be made in writing and shall be accompanied by two sets of plans showing at least the following information:

- a. Actual dimensions and shape of the lot to be built upon.
- b. The exact size and location on the lot of buildings, structures, or signs existing and/or proposed extensions thereto.
- c. The number of dwelling units, if any, to be provided.
- d. The provision of a potable water supply.
- e. Methods of sewage and solid waste disposal, plus information on quantity and quality of sewage involved and proposed method of treatment if required.
- f. Parking spaces provided and/or loading facilities.
- g. Statement indicating the existing or proposed use.
- h. Height of structure, building, or sign.
- i. 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/she shall have marked such copies either as approved or disapproved and attested to same by his/her signature on such copy.

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

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

2. 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 two (2) years from date of issuance thereof.

SECTION 1203 CERTIFICATE OF USE AND OCCUPANCY

A Certificate of Use and Occupancy shall be required for all newly constructed residential units, all multi-family residential permits, all commercial building permits, all industrial building permits and for all home occupation uses upon the completion of the work contemplated. It shall be unlawful to use and/or occupy any structure, building, and/or land portions thereof in any manner until a Certificate of Use and Occupancy has been issued.

1. Form of Application

The application for Certificate of Use and Occupancy shall be submitted in such form as the Zoning Officer may prescribe, and approved by Council.

2. Issuance of Certificate of Use and Occupancy

- a. The Zoning Officer shall inspect any structure, building, sign, and/or land or portions thereof and shall determine the conformity therewith. If he/she is satisfied that the completed work is in conformity with this Ordinance and with the work listed in the Building Permit, he/she shall issue a Certificate of Use and Occupancy.
- b. Certificate of Use and Occupancy shall be granted or refused in writing, within ten (10) days from the date of application.

SECTION 1204 SCHEDULE OF FEES

Each application for a building permit shall be accompanied by cash, certified check, or money order payable to the City of Johnstown in accordance with the schedule of fees as listed in City Hall - Room 205, Building Permits Desk:

1. All Buildings, Signs and Accessory Uses: The fee for a building permit are as listed in City Hall - Room 205, Building Permits Desk
 - a. Building Code Review (if required) \$50.00 in addition to Building Permit Fee
 - b. In addition, for any building projects that require a building permit, in accordance with Section 1202 of these Codified Ordinances, that were started without a building permit, the cost shall be double that shown on the above fee schedule.
2. Demolition. The fee for demolition of a building shall as listed in City Hall - Room 205, Building Permits Desk
3. Moving of Buildings. The fee for moving buildings is as listed in City Hall - Room 205, Building Permits Desk
4. Fixture Fees. Fixture fees are as set by the Standard Plumbing Code, as adopted and amended in Chapter 1422.
5. Occupancy Permit. A fee of ten dollars (\$10.00) shall be charged for each certificate of occupancy issued by the Codes Administrator.
6. Zoning Hearing Board Fee. A fee shall be paid by all persons making application or appeal to the Zoning Hearing Board of two hundred and fifty dollars (\$250.00).

Payment of permit fees does not obligate the Zoning Officer or the City to grant a permit to the applicant. All permits issued must be in conformance with the provisions of this Ordinance; and in the event a permit is not issued, the application fees will not be returned.

SECTION 1205 RECORDS OF PERMITS AND CERTIFICATES; FEES

A record of all permits and certificates shall be kept on file in the office of the Zoning Officer, and copies shall be furnished, on request, to any persons having a proprietary or tenancy interest in the structure or land affected.

A fee shall be charged for the filing of each application for an occupancy permit or copy thereof and for each copy thereof furnished. The amount of such fee shall be as fixed by Council. No fee shall be charged for a certificate of non-conformance.

SECTION 1206 APPLICATION TO PERMITS PREVIOUSLY ISSUED; NON-ISSUANCE PENDING

ZONING CHANGES

1. Any structure for which a permit has been obtained and the construction of which has started, or for which a contract has been let pursuant to a permit issued, prior to the passage of this Zoning Ordinance, may be completed and used in accordance with the plans on which such permit was granted.
2. During a period of sixty days from the date of introduction in Council of any bill which proposes a change in the regulations, district boundaries or classifications of property, the Zoning Officer shall accept no application for permits within the area involved in such change for any use or structure which would be forbidden under the proposed rezoning, unless Council has disapproved the proposed change within such sixty-day period.

SECTION 1207 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, the City, or with their approval the Zoning Officer, in addition to other remedies, may institute 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.

SECTION 1208 VIOLATIONS/JUDGEMENT

1. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Zoning Ordinance shall upon being found liable therefore in a civil enforcement proceeding commenced by the City pay a judgment not more than \$500 plus all court costs, including reasonable attorney fees incurred by the City as a result thereof. No judgment shall commence or be imposed, levied, or payable until the date of the determination of a violation by the district justice. If the defendant neither pays or timely appeals the judgment, the City may enforce the judgment pursuant to applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there was a good faith basis for the defendant to have believed there was no violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs, and reasonable attorney fees collected for the violation of the Zoning Ordinance shall be paid over to the City. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
2. District Justices shall have initial jurisdiction over proceedings brought under this Section.

3. Nothing contained in this Section shall be construed or interpreted to grant to any persons or entity other than the City the right to commence any action for enforcement pursuant to this Section.

ARTICLE XIII

ZONING HEARING BOARD

SECTION 1301 CREATION, ORGANIZATION, EXPENDITURES, AND MEETINGS

1. Creation and Membership

There is hereby established a Zoning Hearing Board. The membership of the Board shall consist of three residents of the City of Johnstown appointed by City Council. Their terms of office shall be three years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the City Council of any vacancies, which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the City.

2. Removal of Members

Any Board member may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of City 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.

3. 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 make, alter, and rescind rules and forms for its procedure, consistent with Ordinances of the City 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 City as requested by Council.

4. Expenditures

Within the limits of funds appropriated by Council, 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. Alternate members of the Board may receive compensation for the performance of their duties. In no case shall the compensation paid to Board members and alternates exceed the rate of compensation paid to members of City Council.

5. Meetings

Meetings of the Zoning Hearing Board shall be held within sixty days from the date of any application to the Board, and at such other times as the Board may determine. All meetings, other than executive sessions, shall be open to the public. The Chairperson, or in his or her absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses. Quarters for the Board (office space with light and heat, necessary supplies, clerical and other services as required) shall be provided by Council. The Board shall appoint a Secretary who shall keep its records.

SECTION 1302 FUNCTIONS

The Zoning Hearing Board shall function in strict accordance with and pursuant to the Municipalities Planning Code Act 247 of 1968 as re-enacted and amended; and shall have all powers set forth therein, including but not limited to the following:

1. Variances

The Board shall hear requests for variances where it is alleged that the provisions of the Zoning Ordinance inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

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

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Zoning Ordinance.

2. Special Exceptions

Where the City Council has stated special exceptions to be granted or denied by the Board pursuant to express standards and criteria, the Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in the Ordinance, as it may deem necessary to implement the purposes of this Zoning Ordinance.

SECTION 1303 HEARINGS

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

1. Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer, such other persons as Council shall designate by Ordinance, and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by Ordinance or, in the absence of Ordinance provision, by rules of the Board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.
2. City Council may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for said hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs, and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other consultants, or expert witness costs.
3. The hearing shall be held within 60 days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.
4. 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; however, the appellant or the applicant, as the case may be, in addition to the City, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.
5. The parties to the hearing shall be the City, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
6. The chairman or acting chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
7. 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.
8. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
9. The Board or the Hearing Officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

10. 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, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
11. 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 45 days after the last hearing before the Board or Hearing Officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of this 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 its report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than 30 days after the report 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 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 or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within ten days from the last day it could have met to render a decision in the same manner as provided in subsection A of this section. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
12. 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 or findings and a statement of the place at which the full decision or findings may be examined.

SECTION 1304 JURISDICTION

1. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
 - a. Substantive challenges to the validity of this Zoning Ordinance, except those brought before the City Council.
 - b. Challenges to the validity of this Zoning Ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within 30 days after the effective date of said Ordinance.
 - c. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease and desist order or the registration or refusal to register any non-conforming use, structure, or lot.

- d. Appeals from a determination by a Municipal engineer or the Zoning Officer with reference to the administration of any Flood Plain or Flood Hazard Ordinance.
 - e. Applications for variances from the terms of the Zoning Ordinance.
 - f. Applications for special exceptions under the Zoning Ordinance or flood plain provisions of this Ordinance.
 - g. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of the Zoning Ordinance.
 - h. Appeals from the Zoning Officer's determination under section 916.2 of the PA Municipalities Planning Code (Procedure to Obtain Preliminary Opinion).
 - i. Appeals from the determination of the Zoning Officer or Municipal engineer in the administration of the Zoning Ordinance with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving Subdivision or Planned Residential Development applications.
2. City Council or, except as to clauses 2, 3, and 4, the Planning Commission, if designated, shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
- a. All applications for approvals of Planned Residential Developments.
 - b. Applications for conditional use under the express provisions of the Zoning Ordinance pursuant to section 603(c) (2) of the PA Municipalities Planning Code.
 - c. Applications for curative amendments to a Zoning Ordinance pursuant to sections 609.1 and 916.1(a) (2) of the PA Municipalities Planning Code.
 - d. All petitions for amendments to the Zoning Ordinance, pursuant to the procedures set forth in section 609 of the PA Municipalities Planning Code. Any action on such petitions shall be deemed legislative acts, provided that nothing contained in this clause shall be deemed to enlarge or diminish existing law with reference to appeals to court.
 - e. Appeals from the determination of the Zoning Officer or the Municipal engineer in the administration of the Zoning Ordinance with reference to sedimentation and erosion control and storm water management insofar as the same relate to application for subdivision and land development or under Planned Residential Development.

ARTICLE XIV

AMENDMENTS

SECTION 1401 AMENDMENTS AND CHANGES

1. Amendments and Changes

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; and adhere to the guiding principles of the Comprehensive Plan, the City may amend, supplement, or change the regulations, district boundaries, or classification of property, now or hereafter established by this Ordinance, subject to the procedure provided in this section.

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

- a. The Planning Commission may initiate action by filing a written report to City Council;
- b. City Council may initiate action on their own; or
- c. Any landowner may submit a request for an amendment.

1. Petition for Map Change or Amendment

a. Form and Content

Petitions for change of district boundaries or reclassification of districts as shown on the Official Zoning Map shall be on forms supplied by the City. 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 the proposed change. A map and/or preliminary site plans of the area to be rezoned shall also be submitted to the City for reference and review. All information shall then be submitted to the Planning Commission for their review and recommendations.

b. Preliminary Review by Planning Commission

After the facts are presented and the data and information from the petition are reviewed and studied by the Planning Commission, the Commission shall, within fifteen (15) days after regularly scheduled meeting, submit the petition with its preliminary recommendations to the City. 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 City.

2. Action by the City

- a. Subsequent to the introduction of the Petition for Zoning Change and Preliminary Report by the Planning Commission to the City, the City shall fix a time for a public hearing, pursuant to Public Notice requirements.
- b. Public Notice shall include 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 describe the change proposed.
- c. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the City at points deemed sufficient by the City along the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.

3. City Planning Commission Review

In the case of amendments not initiated by the City Planning Commission, the Planning Commission shall have been informed of the amendment at least 30 days prior to the hearing.

4. Cambria County Planning Commission Review

The City shall submit the proposed amendment to the Cambria County Planning Commission for recommendation at least 30 days prior to the public hearing.

5. Conduct of Public Hearing

- a. A public hearing is held by City Council pursuant to public notice.
- b. If the proposed amendment is altered substantially or is revised to include land not previously affected, another public hearing must be held pursuant to public notice.
- c. Notice of the amendment must be published at least 10 days prior to enactment.
- d. Following the final public hearing, Council may vote to adopt the amendment.
- e. To be a legally enacted amendment, notice of the proposed enactment must be published in a newspaper of general circulation as outlined in this Section.

6. Publication

Notice of the proposed enactment shall include the time and place of the meeting where passage will be considered, and a reference to the place where copies of the amendment may be examined without charge or obtained at cost. The City shall publish the proposed amendment once in a newspaper of general circulation in the City. Such notice shall state the time, place of the meeting, and the particular nature of the matter to be considered at the meeting. The publication shall not be more than 60 days nor less than 10 days prior to passage. Publication of the proposed amendment shall include either the full text or the title and brief summary, prepared by the City Solicitor. If the full text is not included, a copy will be supplied to the newspaper at the time public notice is published, and an attested copy of the proposed Ordinance will be filed at the Cambria County Law Library. If substantial changes are made to the amendment after this publication, the City, at least 10 days prior to enactment, shall re-advertise a brief summary setting forth all provisions and changes, according to the aforementioned notice requirements in a newspaper of general circulation in the City.

7. Final Action by the City

- a. 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 City Council.
- b. Any Ordinance amending, supplementing or changing the regulations, district boundaries or classification of property hereinafter established by this Ordinance, if not acted upon by the City within ninety (90) days after the required public hearing, shall require a new public hearing as prescribed in this Section.
- c. Within 30 days after the enactment, the City shall forward a copy of the amendment to the Cambria County Planning Commission.

SECTION 1402 LANDOWNER CURATIVE AMENDMENT

A landowner who desires to challenge the validity of the Zoning Ordinance, map, or any provision thereof, on substantial grounds, which prohibits or restricts the use or development of land in which he or she has an interest, may submit a curative amendment to the City with a written request that his or her challenge and proposed amendment be heard and decided. The City shall commence a public hearing within 60 days of receipt of the written request.

1. Notification

The City Planning Commission and the Cambria County Planning Commission shall be notified of the proposed amendment at least 30 days prior to the public hearing.

2. Publication

Publication requirements of Section 1401 of this Ordinance shall apply.

3. Public Hearings

The hearing shall be conducted in accordance with Section 1303 of this Ordinance, and all references therein to the Zoning Hearing Board shall, for the purposes of this Section, refer to City Council.

4. Invalidation Limitation

If the City does not accept the landowner's curative amendment and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for the entire Zoning Ordinance or map, but only for those provisions, which specifically relate to the landowners curative amendment and challenge.

5. Enactment Considerations

If it is determined that the challenge has merit, City Council may accept the landowner's curative amendment, with or without revision, or may adopt an alternative amendment which cures the

challenged defects. In addition to the curative amendments, plans, and information submitted by the landowner, City Council shall also consider the following:

- a. The impact of the proposal on roads, sewer facilities, water supplies, and other public facilities;
- b. The impact of residential proposals on regional housing needs and their effectiveness in providing housing units of the type available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the Ordinance or map;
- c. Site suitability in relation to physiographic features;
- d. The impact of the proposed use on physiographic and environmental considerations; and
- e. The impact of the proposed use on agricultural preservation, public health, and public welfare considerations.

SECTION 1403 MUNICIPAL CURATIVE AMENDMENTS

The City may determine that this Zoning Ordinance or sections thereof are substantially invalid. This determination shall declare by formal action the sections substantially invalid and propose a curative amendment to overcome this invalidity.

1. Within 30 days of this declaration and proposal the City shall:
 - a. By resolution make specific findings setting forth the declared invalidity which may include references to specific uses which are either not permitted or not permitted in sufficient quantity; class of uses which require revision; or references to the entire Ordinance; and
 - b. Begin to prepare and consider a curative amendment to correct the declared invalidity.
2. Within 180 days of the declaration and proposal, the City shall enact a curative amendment or validate, or reaffirm the validity of, its Zoning Ordinance pursuant to the procedures outlined in Section 1401 of this Ordinance.
3. After using this procedure, the City may not again utilize this method for a 36-month period following the date of a curative amendment, or reaffirmation of its Zoning Ordinance, unless a new duty or obligation is imposed on the City by a change in statute or Pennsylvania Appellate Court decision after the date of declaration and proposal. In this case, the City may use the provision of this Section to fulfill said duty or obligation.
4. Any other procedures or provisions as required by the PA Municipalities Planning Code, Act 247 as re-enacted and amended.

SECTION 1404 FEES

Any person other than City Council or the City Planning Commission requesting an amendment of the Zoning Ordinance (including a curative amendment) shall pay a fee of Two Hundred Twenty-Five Dollars (\$225.00) at the time the request is filed with the City. This fee shall cover the cost of advertising of the aforesaid notice, the cost of stenographic service, necessary administrative overhead, and any other expenses incurred in connection with such application, provided, however, that if the total of the aforesaid

costs and expenses does not exceed the amount provided, any difference shall be refunded to the applicant. In the event the aforesaid costs and expenses exceed the \$225.00 fee, the applicant shall reimburse the City for such excess.

ARTICLE XV

REPEALING CLAUSE

SECTION 1501 REPEALING CLAUSE

If any sentence, clause, or section of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or sections of this Ordinance. It is hereby declared as the intent of the Johnstown City Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentences, clauses, or sections thereof not have been included herein.

All other Ordinances or part of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

It is the intention of this Ordinance, or any amendments or supplements hereto, to furnish a complete and exclusive system of zoning and regulations for zoning in the City of Johnstown, Cambria County, Pennsylvania.

Ordained and enacted this _____ day of _____, 2013.

City of Johnstown
Municipality

By: _____
Chairman

Attest: _____
Secretary