

Chapter 27

Zoning

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Part 1**General Provisions****§27-101. Short Title.**

This Chapter shall be known, and may be cited as, the “Oklahoma Borough Zoning Ordinance.”

(*Ord. 196, 4/14/1986, Art. I, §1.10*)

§27-102. Purpose.

This Chapter is deemed necessary by Borough Council to promote the public health, safety and general welfare; to conserve and stabilize property values; to facilitate the economic provisions of streets, utilities and other public services; to prevent the overcrowding or incompatible use or development of land; and to preserve floodplains, steep hillsides and areas of poor subsurface conditions from intense development.

(*Ord. 196, 4/14/1986, Art. I, §1.20*)

§27-103. Community Development Objectives.

The arrangement of land use areas, the intensity of residential development and the capacity and function of streets and public utilities were determined in a master plan study of the Borough that preceded the preparation of this Chapter. That plan is the basis for the description of the zoning districts of this Chapter and the regulations that apply in each district.

(*Ord. 196, 4/14/1986, Art. I, §1.30*)

§27-104. Interpretation.

The provisions of this Chapter shall be held to be the minimum requirements for the promotion of the public health, safety and welfare.

(*Ord. 196, 4/14/1986, Art. I, §1.40*)

§27-105. Conflict.

1. Where conflicts exist between this Chapter and other regulations of the Borough or of a higher level of government, or with legal restrictive covenants applied by landowners to the development of their property, the ordinance, regulation or covenant establishing the higher standard shall prevail.

2. All ordinances or parts thereof in conflict with this Chapter, inconsistent with its provisions, or less restrictive are hereby repealed to the extent necessary to give this ordinance full force and effect.

(*Ord. 196, 4/14/1986, Art. I, §1.50*)

§27-106. Municipal Liability.

The grant of a zoning permit in any zone district shall not constitute a representation, guarantee or warranty of any kind, by the Borough or by any official or employee, of the practicality or safety of the use, building or structure covered by the permit, and

shall create no liability upon the Borough, its officials or employees.

(*Ord. 196, 4/14/1986, Art. I, §1.60*)

§27-107. Continuity.

The provisions of this Chapter, so far as they are common to those of zoning regulations in force immediately prior to the enactment of this Chapter, are intended as a continuation of such prior regulations and not as new enactments. Such parts of the prior regulations that are omitted from this Chapter shall be deemed as abrogated and only the new or changed provisions included in this Chapter shall be deemed to be the law from the effective date of this Chapter. The adoption of this Chapter does not make legitimate development activity in the Borough illegal under provisions of the prior regulations, nor does it annul any litigation currently being pursued or that may be pursued in the future against such illegal activity.

(*Ord. 196, 4/14/1986, Art. I, §1.70*)

Part 2**Definitions****§27-201. General Rules.**

Words used in the present tense include the future tense; the particular controls the general; the singular includes the plural and the plural the singular; the words “person” or “developer” include a firm, association, partnership, trust, company or corporation as well as an individual; the masculine includes the feminine; the word “shall” is mandatory and the word “may” permissive; the words “used” or “occupied” include the words “intended, arranged, maintained or designed to be used or occupied”; and words used in this Chapter and not otherwise defined in this Part shall have the same meaning as in a standard dictionary.

(Ord. 196, 4/14/1986, Art. II, §2.10)

§27-202. Definitions.

Access lane—the vehicular passage between a street and parking spaces, lined on one or both sides by parking spaces for all or a part of the lane’s length.

Accessory use—an activity that is incidental to the principal use of a lot and not permitted unless developed at the same time as, or later than, the principal use. An accessory structure contains an accessory use, but no dwelling units.

Amendment—any addition, deletion or revision of the Chapter text or the zoning map officially adopted by Council after public hearing.

Apartment—a suite of rooms in a building containing at least one other dwelling unit, each unit with its own cooking, food storage, bathing and toilet facilities and with access directly or by a common hallway to the outside.

Apartment building, garden—a building containing more than two apartments, with access from apartments via stairways and common halls to the outside at grade level.

Boarding or lodging accommodation—a room within a dwelling available to an individual on a rental basis but not necessarily including a private bathroom, or meals which if provided constitute a boarding arrangement.

Borough Council—the duly elected governing body of the Borough of Oklahoma.

Building—any structure having a permanent roof and covering an area on the ground.

Building, enclosed—a building with a permanent roof and solid walls extending from the roof to the ground, the walls pierced by doors and/or windows.

Building, permanent—a building supported upon foundations extending into the ground and constructed thereon.

Centerline—a line running parallel to the curbs or edges of a street and equidistant from the curbs or edges on each side.

Club, nonprofit community—an organization of members which operates a facility for the benefit of the members and not as a commercial venture.

Community development objectives—a statement required by the Pennsylvania

Municipalities Planning Code, 53 P.S. §10101 *et seq.*, to appear in a zoning ordinance, demonstrating that the ordinance is based upon a municipal master plan, relative to land use, population density, and location of streets and utilities.

Commercial recreation—indoor leisure activity including, but not limited to, bowling, pool halls, dance halls, movie or live entertainment theaters, but not including activities that apply principally to the lewd interest.

Conditional use—the use of a property that may be permitted by Borough Council after study of the use and the property proposed to receive it indicates that such use will not downgrade the neighborhood where it is proposed or be hazardous to the public. Such uses are specified for each zone district by this Chapter. Council may attach conditions to approval of a conditional use.

Conversion apartment—a dwelling unit established from a portion of an already existing single-family dwelling, when each dwelling after conversion is provided with all the facilities normally found in a dwelling unit including adequate heat, light, ventilation, sanitary and washing facilities, cooking and food storage and separate means of egress.

Curative amendment—an amendment of this Chapter requested by a property owner requiring Borough Council to schedule a public hearing within 60 days, followed by formal action thereon, or an amendment by Council after declaring a part of this Chapter defective, placing a moratorium on property owner curative amendments, and requiring Council's action to reaffirm or amend the Chapter or part thereof after hearing within 180 days.

Day care center—a facility designed to accommodate preschool age or elderly dependent persons while parents or guardians are at work but not including overnight accommodations.

Developer—any landowner, agent of such landowner, or tenant with the permission of such landowner who undertakes or causes to be undertaken the subdivision or redivision of land, or erects, expands or alters a building or structure, or changes the surface of the land, or any or all of these. [Ord. 206B]

Development—the improvement of one lot or two or more contiguous lots for the erection, expansion or alteration of one or more buildings or structures, the changing of the land surface in anticipation of its receiving a building or structure, the subdivision or redivision of land, or the offering of land for such purpose. [Ord. 206B]

Drainageway—a sloping depression on the earth's surface, either natural or man-made, to carry stormwater run-off from higher to lower elevations.

Dwelling, single-family detached—a dwelling unit designed and intended to be occupied by one family only, and surrounded by open space on the same lot.

Dwelling, single-family attached—a dwelling unit along a common party wall or party walls to one similar dwellings, each with its own at-grade access to the outside and each with at least one room, not a corridor or stairhall, on the first floor level; also a townhouse.

Dwelling, two-family—a detached building containing only two dwelling units, each entirely separate from the other and each with its own access directly to the outside.

Dwelling unit or dwelling—a group of connected rooms in a building for the exclusive use of one family, containing its own private bathing, toilet, cooking and food

storage facilities.

Earth movement—the rearrangement of the earth surface by excavation and filling to accommodate development; also known as “grading.”

Easement—a right-of-way across private property granted by the owner for the passage of public utilities or the disposal of stormwater.

Family—an individual, or group of persons related by blood, marriage or adoption, or a group of not more than three unrelated individuals, living together in the same dwelling unit.

Fill—material excavated elsewhere and deposited upon the earth surface in the process of grading for land development.

Flood prone area—land surface abutting a stream or drainageway that will be inundated during the course of a flood likely to occur once every 100 years, or with a 1 percent change of occurring in any 1 year.

Flood proofed—the preparation of an enclosed space, all or part of which lies below a foot and a half above the 100-year flood level, so that such space will remain dry during flood conditions.

Foster care or half-way house—a dwelling used to house individuals who are under the custody and care of a social agency or public body or are recovering from treatment in an institution and are preparing to return to society.

Garage—an accessory building on a residential lot attached to or detached from the dwelling, or a room within the dwelling, intended for the storage of vehicles operated by the residents of the dwelling and not intended to house an automobile repair business.

Grading—the reconstruction of the surface of a property to accommodate development.

Home occupation—a business carried on entirely within a single-family dwelling by the residents thereof, involving no exterior changes to the appearance of the dwelling and not creating nuisance or congestion conditions in the neighborhood where it is located.

Land use—the activity or activities for which a lot or property and the structures (if any) on it are devoted.

Lot—an area of land surface abutting a street, such area recorded as to ownership and legal description with the County Recorder of Deeds; also a property.

Lot area—the area of a lot but not including any portions of a street right-of-way encroaching on or crossing the lot.

Lot frontage—the length of the edge of a lot that abuts the street to which the principal structure on the lot is or will be oriented.

Lot of record—a lot duly recorded in the office of the Westmoreland County Recorder of Deeds.

Lot width—the distance across a lot measured along the front setback line.

Mobile home—a transportable structurally integral single-family dwelling intended for permanent occupancy which arrives on its site or lot ready for use, except for the joining of, the matched pair of units if a double-wide home, and other minor assembly;

and which is capable of later being disassembled and towed to a second site or lot.

Mobile home park—a property which has been designed for placement of at least two mobile homes.

Municipal facilities and services—any service or utility provided by the Borough or by a body created and/or funded by the Borough.

Neighborhood business—a retail outlet providing goods and/or services required by households on a daily basis located in a building similar in size to the surrounding dwellings.

Occupancy permit—authorization issued by the Zoning Officer attesting that the proposed use or reuse of premises is in accordance with this Chapter or with a previously issued zoning permit and may legally be occupied.

Off-street parking—area set aside on a lot for parking of cars entirely outside a public street.

Parking space—an area in a lot designed to store one vehicle.

Patio—a paved outdoor area level with surrounding land surfaces and without a permanent roof.

Pennsylvania Municipalities Planning Code—the enabling legislation of the Commonwealth, originally adopted in 1968, regulating the right of municipalities to adopt zoning ordinances and specifying generally the regulations and limitations thereof.

Personal services—activities provided at retail to individuals but involving no added product, except incidentally.

Posting—the placement of a notice upon a signboard on a property calling public attention to proposed changes in the zoning status of the property, or to a request for a variance, and indicating the date, time and place of the hearing at which such matter will be heard.

Principal permitted use—a use that is expressly allowed by this Chapter to occur on a lot because of the lot's location in a certain zoning district, and to which all other activity on the lot is subordinate.

Principal structure—the main building on a lot, housing the principal use of the lot.

Professional engineer—an individual duly registered to practice civil engineering in the Commonwealth of Pennsylvania.

Property line—the edge of a lot or property described by bearings and distances and noted on the property deed; also a lot line.

Public hearing—a meeting called by Borough Council or the Zoning Hearing Board, properly noticed in advance, for the purpose of taking testimony on the matter being heard, as a basis for Council or the Board to make a later decision.

Public notice—an announcement of a public hearing published in the legal section of the principal newspaper serving Borough residents at least twice, once in each of 2 consecutive weeks, the first notice not more than 30 days before the hearing and the second not less than 7 days before indicating the date, time and place of the hearing and a description of the matter to be heard, as well as the location where, and times at which the material to be covered in the hearing may be examined. [Ord. 206B]

Public utility structure, right-of-way and facilities—any element in the systems to

convey water, sewerage, gas, electricity, or telephone or television communications, as well as devices to treat, store, transform or regulate within such systems, whether on public or privately-owned land.

Right-of-way—a strip of land dedicated to and improved for public use, providing access to properties or lots that abut it and connecting to other public ways, or an easement across private property for the passage of public utilities or the disposal of stormwater.

Premises—all or part of a lot or property devoted to a particular use.

Screen—a planted buffer intended to protect residential properties from abutting commercial or other downgrading activities that might deteriorate the residential property values.

Setback—the minimum distance a structure must be removed from the nearest property line; thus the front setback line describes the limit of construction on a lot behind the property line abutting the street.

Sewage Enforcement Officer—an individual certified by the Commonwealth and retained by the Borough to evaluate the ability of a lot proposed for development to absorb sewerage effluent and to decide on the appropriate type of disposal system, if any, under the circumstances to serve the property.

Sign—a panel or construction projecting a message by words, symbols and/or pictures designed to be viewed by the public, but not including the support thereof.

Site development—the improvement of a property in accordance with an approved site plan, including placement of structures and/or manipulation of the land surface.

Site plan—a layout of a property showing all improvements proposed to be placed on or under the lot in the course of development, as well as existing conditions on the lot to remain.

Small business venture—a business conducted on a property by those residing there and screened and isolated in such a way that neighboring dwellings are not affected by it.

Stenographic record—a transcription of the testimony taken at a public hearing, recorded by a professional stenographer at the hearing.

Storm retention vessel—a depression in the land surface or a paved surface, rooftop or holding tank designed and built to hold excess stormwater drainage for release at a controlled rate.

Story—the vertical dimension between a floor and the floor of the level next above or next below when the dimension between floors is at least 6 feet, or if no floor is above, then the ceiling above.

Street—an improved vehicular surface within a right-of-way which affords the primary means of access to abutting properties. A public street is one which has been accepted for maintenance by the Borough or State.

Structure—any permanent man-made construction in, on or over the ground surface and attached to the ground, but not including paving or surfaces treated for vehicular or pedestrian passage.

Subdivision—the dividing of a property into two or more lots, each with access to a street, for the immediate or future sale or lease to a second party, or the changing of

existing lot lines even when no new lots are created, such divisions requiring the approval of the Westmoreland County Department of Development, and recording with the County Recorder of Deeds before lots may be sold.

Undisturbed earth—land surface that has not been altered for at least the 2 previous years.

Use allowed by right—a principal permitted use.

Variance—a grant of the Zoning Hearing Board permitting an owner to use a property not wholly in accordance with this Chapter because the Board finds that strict conformance would be a hardship, not created by the owner, depriving him of reasonable use of the property, and a specific minor variation or variations in the regulations determined by the Board to accommodate the owner will not detrimentally affect abutting properties or the public.

Volume measurement—the dimension created by multiplying the length of an interior space by its width and then multiplying the quotient by the floor to ceiling dimension.

Yard—the front, side or rear area of a lot or property between property line and setback line, the depth of which is specified for each zoning district by this Chapter and within which buildings with permanent roofs or portions thereof, cannot be built.

Yard, front—the area of a lot between the front property line abutting the street to which the property has access and the front setback line and extending between the side lot lines.

Yard, rear—the area of a lot between the rear property line and rear setback line and extending between the side lot lines.

Yard, side—the area of a lot between the side property line and side setback line on each side of a property and extending between the front and rear yards.

Zoning boundary—the edge of a zoning district where it abuts another district or the Borough boundary.

Zoning classification—the group of uses that are permitted by right or conditionally and the constraints on development that apply uniformly throughout a zoning district.

Zoning district—a contiguous area of land on all parts of which the same uniform opportunities for development apply.

Zoning Hearing Board—a Board appointed by Borough Council to examine and decide appeals for relief from strict conformance to this Chapter, and to hear testimony regarding the validity of this Chapter or regarding challenges to the decisions of the Zoning Officer.

Zoning Map—the official plan of zoning districts in the Borough, a part of this Chapter, showing precisely the boundaries and title of each zoning district.

Zoning Officer—a person retained by the Borough to enforce the regulations of this Chapter, with power to issue building and occupancy permits, to halt illegal construction, and to interpret the meaning of the various sections of the Zoning Chapter subject to appeal before the Zoning Hearing Board.

Zoning permit—a document issued by the Borough attesting that all requirements of this Chapter have been met and allowing the approved work to commence in conformance with the permit.

(*Ord. 196*, 4/14/1986, Art. II, §2.20, as amended by *Ord. 206B*, 8/13/1990, §1; and by *Ord. 2015-04*, 12/14/2015)

Part 3**Zoning District Map****§27-301. Establishment of Districts.**

Oklahoma Borough is hereby divided into four classes of zoning districts as shown on the Official Zoning Map. The regulations that apply in each zone district are contained in Part 4. The three classifications are Conservation, Residential R-1, Residential R-2, and Residential R-3.

(*Ord. 196, 4/14/1986, Art. III, §3.10*)

§27-302. Official Zoning Map.

1. A reproduction of the Official Zoning Map is bound into the rear of this Chapter and is an integral part of the Chapter.

2. The official copy of the Zoning Map shall be located in the Borough office and shall be kept current as zone district boundaries are amended. It shall be the final authority as to the current location of zone district boundaries.

3. No changes of any kind shall be made to the map except after amendments have been adopted by Council (see §27-905). Any unauthorized change by any person shall be considered a violation of this Chapter, subject to penalties under §27-904.

4. The official zoning map shall be identified by the signatures of the President and Secretary of Borough Council, together with the date of adoption under the following words: "This is to certify that this is the Official Zoning Map referred to in Article III of *Ord. 196, of 1986* of the Borough of Oklahoma, Westmoreland County, Pennsylvania."

5. Each amendment to the zoning district boundaries shall be noted on the zoning map by the ordinance number and date together with initials of the President of Council.

(*Ord. 196, 4/14/1986, Art. III, §3.20*)

§27-303. Interpretation of District Boundaries.

1. Zoning district boundaries in most cases follow property lines or the center lines of streets, railroad lines or streams.

2. Boundaries indicated as parallel to a street, property line or railroad shall be construed as parallel thereto and at such a distance therefrom as indicated on the map.

3. Boundaries whose location are not otherwise indicated specifically follow the toe or top (edge) of steep slopes and are indicated approximately on the map.

4. When there is disagreement over the location of district boundaries, a decision on the correct location shall be rendered by the Zoning Officer with appeal from his decision made to the Zoning Hearing Board.

5. In the event that the Borough annexes additional land, such land shall be placed initially in the R-1 Zone District until Council, within 90 days of annexation, determines the appropriate zone classification for the land, after receiving recommenda-

tions from the Planning Commission and holding a public hearing.
(*Ord. 196, 4/14/1986, Art. III, §3.30*)

Part 4**Regulations within Each Zone District****§27-401. Application of District Regulations.**

1. *Uniformity.* The regulations within each zone district shall apply uniformly to every proposed development therein whether new construction, expansion or renovation of a property.

2. *Conformity.* No building, structure or land area shall be erected, used or altered except to conform with the regulations of the zone district containing the property to be developed, unless:

A. Borough Council approves an application for a conditional use.

B. The Zoning Hearing Board grants a variance, allowing specific modification of the regulations.

3. *Yard Size and Use.* No yard or lot area or off-street parking space used by one building, structure or land use shall be credited to another building, structure or use, and no yard, or lot or off-street parking area shall be reduced in size or number so as to be less than the minimums prescribed for the zone district.

4. *Uses Allowed by Right.* Within each zoning district lands, buildings and structures shall be used, and buildings and structures shall be erected, altered or enlarged only for any of the uses permitted by right in the zone district, or after Council approval for a conditional use. The principal permitted uses (allowed by right), accessory uses and conditional uses for each zone district are listed below in this Part. No use listed in one zone district is allowed in a second district unless listed as a permitted, accessory or conditional use in that second district.

5. *Accessory Uses.* Any accessory use may only be constructed or occupied concurrent with or later than the principal use it serves.

(Ord. 196, 4/14/1986, Art. IV, §4.10)

§27-402. Conservation Zone District (CON).

1. *Principal Permitted Uses.*

A. Single-family detached dwelling but not including a mobile home.

B. Growing of orchard, nursery, vegetable or field crops, or the grazing of livestock, including barns and/or storage buildings.

C. Municipal facilities and services.

D. Public utility structures, right-of-way and facilities but not including office buildings, garages or materials stockpiles.

2. *Accessory Uses.*

A. Private garages and off-street parking areas for the use of residents of the property and their guests.

B. Private recreation facilities for the use of residents of the property and their guests.

C. Buildings for property maintenance equipment, housing of pets or farm animals owned by the property residents, greenhouses, etc.

3. *Conditional Uses.*

A. Recreation areas, including but not limited to playgrounds, fishing or boating preserves, swimming clubs, horse riding stables, and trails, picnic groves, etc., (see §27-604.1).

B. Commercial nursery, greenhouse or orchard, including roadside sales stand for crops grown on the same property (see §27-603.1).

C. Cemetery (see §27-604.2).

D. Veterinary clinic and/or commercial kennel (see §27-603.2).

E. Home occupation (see §27-603.3).

F. Small business venture (see §27-603.4).

4. *Minimum Dimensional Requirements.*

A. Lot area—40,000 square feet.

B. Lot width—120 feet.

C. Lot frontage—50 feet.

D. Front yard depth—25 feet.

E. Side yard depth, interior yard—15 feet.

F. Side yard depth, yard abuts street—25 feet.

G. Rear yard depth, principal building—30 feet.

H. Rear yard depth, accessory building—15 feet.

(*Ord. 196, 4/14/1986, Art. IV, §4.20*)

§27-403. Residential R-1 Zone District (R-1).

1. *Principal Permitted Uses.*

A. Single-family detached dwelling but not including a mobile home.

B. Two-family dwelling.

C. Conversion of a single-family dwelling to a two-family, dwelling (see §27-505.1).

D. Outdoor growing of orchard, nursery or vegetable crops.

E. Municipal facilities and services.

F. Public utility structures, rights-of-way and facilities, but not including office buildings, garages or materials stockpiles.

G. Operations for the exploration for and development of oil and gas, provided that, the laws and regulations of the Commonwealth of Pennsylvania and the Department of Environmental Protection are met. [*Ord. 2005-1*]

2. *Accessory Uses.*

A. Private garages and off-street parking areas for the use of residents of the property and their guests.

B. Private recreation facilities for the use of residents of the property and

their guests.

C. Buildings for property maintenance equipment, housing for pets owned by the property residents, greenhouses, etc.

D. Boarding or lodging of not more than two individuals in a single-family detached dwelling occupied by a family.

3. *Conditional Uses.*

A. Attached single-family dwellings (townhouses) (see §27-602.1).

B. Garden apartment buildings (see §27-602.2).

C. Place of worship, including educational, social and administrative functions (see §27-604.3).

D. Home occupation (see §27-603.3).

E. Non-profit community club (see §27-604.4).

F. Nursing, convalescent or retirement home (see §27-602.3).

G. Day care center (see §27-604.5).

H. Boarding or lodging home for not more than five residents (see §27-602.4).

I. Parking lot for permitted or conditional use in an adjacent zone district (see §27-603.5).

J. Commercial greenhouse (see §27-603.1).

4. *Minimum Dimensional Requirements.*

A. Lot area—

(1) Single-family detached dwelling, municipal facilities, public utilities, home occupation or boarding home—7,500 square feet.

(2) Two-family dwelling, dwelling conversion, place of worship, day care center or parking lot—10,000 square feet.

(3) Attached dwellings or garden apartments, nursing home, community club, commercial greenhouse or crop raising—20,000 square feet.

B. Lot width—60 feet.

C. Lot width, corner lot—75 feet.

D. Lot frontage—50 feet.

E. Front yard depth—25 feet.

F. Side yard depth, interior yard—8 feet.

G. Side yard depth, yard abuts street—25 feet.

H. Rear yard depth, principal building—25 feet.

I. Rear yard depth, accessory building—8 feet.

J. Lot area per attached dwelling or apartment unit—3,000 square feet.

(*Ord. 196, 4/14/1986, Art. IV, §4.30, as amended by Ord. 2005-1, 4/11/2005, §1*)

§27-404. Residential R-2 Zone District (R-2).

1. *Principal Permitted Uses.*

A. Single-family detached dwelling including a mobile home (see §27-504).

- B. Two-family dwelling.
- C. Conversion of a single-family dwelling (see §27-505.1).
- D. Outdoor growing of orchard, nursery or vegetable crops.
- E. Municipal facilities and services.
- F. Public utility structures, rights-of-way and facilities, but not including office buildings, garages or materials stockpiles.
- G. Operations for the exploration for and development of oil and gas, provided that, the laws and regulations of the Commonwealth of Pennsylvania and the Department of Environmental Protection are met. [*Ord. 2005-1*]

2. *Accessory Uses.*

- A. Private garages and off-street parking areas for the use of residents of the property and their guests.
- B. Private recreation facilities for the use of residents of the property and their guests.
- C. Buildings for property maintenance equipment, housing for pets owned by the property residents, greenhouses, etc.
- D. Boarding or lodging of not more than two individuals in a single-family detached dwelling occupied by a family.

3. *Conditional Uses.*

- A. Attached single-family dwellings (townhouses) (see §27-602.1).
- B. Garden apartment buildings (see §27-602.2).
- C. Place of worship, including educational, social and administrative functions (see §27-604.3).
- D. Home occupation (see §27-603.3).
- E. Nonprofit community club (see §27-604.4).
- F. Nursing, convalescent or retirement home (see §27-602.3).
- G. Day care center (see §27-604.5).
- H. Boarding or lodging home for not more than five residents (see §27-602.4).
- I. Parking lot for permitted or conditional use in an adjacent zone district (see §27-603.5).
- J. Mobile home park (see §27-602.5).
- K. Commercial greenhouse (see §27-603.1).

4. *Minimum Dimensional Requirements.*

A. Lot area—

- (1) Single-family detached dwelling, municipal facilities, public utilities, home occupation or boarding home—7,500 square feet.
- (2) Two-family dwelling, dwelling conversion, place of worship, day care center or parking lot—10,000 square feet.
- (3) Attached dwellings or garden apartments, nursing home, community club, commercial greenhouse or crop raising—20,000 square feet.

(4) Mobile home park—85,000 square feet.

- B. Lot width—60 feet.
- C. Lot width, corner lot—75 feet.
- D. Lot frontage—50 feet.
- E. Front yard depth—25 feet.
- F. Side yard depth, interior yard—8 feet.
- G. Side yard depth, yard abuts street—25 feet.
- H. Rear yard depth, principal building—25 feet.
- I. Rear yard depth, accessory building—8 feet.
- J. Lot area per attached dwelling or apartment unit—3,000 square feet.

(*Ord. 196, 4/14/1986, Art. IV, §4.40, as amended by Ord. 2005-1, 4/11/2005, §2*)

§27-405. Residential R-3 Zone District (R-3).

1. *Principal Permitted Uses.*

- A. Single-family detached dwelling but not including a mobile home.
- B. Two-family dwelling.
- C. Conversion of a single-family dwelling to two or more dwelling units.
- D. Attached single-family dwellings (townhouses) (see §27-505.3).
- E. Garden apartment buildings (see §27-505.2).
- F. Municipal facilities and services.
- G. Public utility structures, rights-of-way and facilities.
- H. Place of worship, including educational, social and administrative functions and/or the dwelling, of the minister, priest or rabbi.
- I. Home occupation.
- J. Boarding or lodging home for not more than five residents.
- K. Parking lot.
- L. Operations for the exploration for and development of oil and gas, provided that, the laws and regulations of the Commonwealth of Pennsylvania and the Department of Environmental Protection are met. [*Ord. 2005-1*]

2. *Accessory Uses.*

- A. Private garages and off-street parking areas for the use of residents of the property and their guests.
- B. Private recreation facilities for the use of residents of the property and their guests.
- C. Buildings for property maintenance equipment, housing for pets owned by the property residents, greenhouses, etc.
- D. Boarding or lodging of not more than two individuals in any dwelling occupied by a family.

3. *Conditional Uses.*

- A. Medical or dental clinic (see §27-603.6).

- B. Business or professional office (see §27-603.7).
- C. Nonprofit community club (see §27-604.4).
- D. Nursing, convalescent or retirement home (see §27-602.3).
- E. Day care center (see §27-604.5).
- F. Funeral home (see §27-603.8).
- G. Commercial recreation establishment (see §27-603.9).
- H. Gasoline service station (see §27-603.10).
- I. Restaurant or tavern (see §27-603.11).
- J. Motel (see §27-603.12).
- K. Neighborhood retail business including, but not limited to, grocery store, delicatessen, pharmacy, bake shop, laundromat, dry cleaning pick-up, and branch bank (see §27-603.13).

4. *Minimum Dimensional Requirements.*

A. Lot area—

(1) Single-family detached dwelling, municipal facilities, or public utilities—4,000 square feet.

(2) Two-family dwelling, home occupation, boarding house, dwelling conversion—6,000 square feet.

(3) All other permitted or conditional uses in the R-3 District—10,000 square feet.

B. Lot width and frontage—40 feet.

C. Lot width, corner lot—50 feet.

D. Front yard depth—25 feet.

E. Side yard depth, interior yard—5 feet.

F. Side yard depth, yard abuts street—15 feet.

G. Rear yard depth, principal building—20 feet.

H. Rear yard depth, accessory building—5 feet.

I. Lot area per attached dwelling or apartment unit—2,000 square feet.

(Ord. 196, 4/14/1986, Art. IV, §4.50, as amended by Ord. 2005-1, 4/11/2005, §3)

| Table 27-4-1 Permitted Uses—Zones In Which Permitted | | | | |
|--|----------------------|------------|------------|------------|
| Principal Permitted Uses | Zone District | | | |
| | CON | R-1 | R-2 | R-3 |
| Single-family detached dwelling, not including mobile home | X | X | X | X |
| Mobile home | | | X | |
| Two-family dwelling | | X | X | X |
| Conversion of single-family dwelling | | X | X | X |
| Attached single-family dwellings (townhouses) | | | | X |
| Garden apartment buildings | | | | X |
| Boarding or lodging home | | | | X |
| Place of worship | | | | X |
| Home occupation | | | | X |
| Parking lot | | | | X |
| Municipal facilities and services | X | X | X | X |
| Public utility structures, rights-of-way and facilities but not offices, garages or stockpiles | X | X | X | |
| Public utility structures, rights-of-way and facilities | | | | X |
| Growing of orchard, nursery or vegetable crops | | X | X | |
| Growing of orchard, nursery, vegetable or field crops and grazing of cattle | X | | | |

| Table 27-4-2 Conditional Uses—Section Reference and Zones Where They May be Proposed | | | | | |
|---|------------------|----------------------|------------|------------|------------|
| Conditional Use | Reference | Zone District | | | |
| | | CON | R-1 | R-2 | R-3 |
| Attached single-family dwellings (townhouses) | §27-602.1 | | X | X | |
| Garden apartments | §27-602.2 | | X | X | |
| Nursing, convalescent or retirement home | §27-602.3 | | X | X | X |
| Boarding or lodging home | §27-602.4 | | X | X | X |
| Mobile home park | §27-602.5 | | | X | |
| Commercial nursery, greenhouse or orchard | §27-603.1 | X | X | X | |
| Veterinarian clinic or commercial kennel | §27-603.2 | X | | | |
| Home occupation | §27-603.3 | X | X | X | |
| Small business venture | §27-603.4 | X | | | |
| Parking lot for use in adjacent district | §27-603.5 | | X | X | |
| Medical or dental clinic | §27-603.6 | | | | X |
| Business or professional office | §27-603.7 | | | | X |
| Funeral home | §27-603.8 | | | | X |
| Commercial recreation establishment | §27-603.9 | | | | X |
| Gasoline service station | §27-603.10 | | | | X |

| Conditional Use | Reference | Zone District | | | |
|------------------------------|------------|---------------|-----|-----|-----|
| | | CON | R-1 | R-2 | R-3 |
| Restaurant or tavern | §27-603.11 | | | | X |
| Motel | §27-603.12 | | | | X |
| Neighborhood retail business | §27-603.13 | | | | X |
| Recreation areas | §27-604.1 | X | | | |
| Cemetery | §27-604.2 | X | | | |
| Place of Worship | §27-604.3 | | X | X | X |
| Nonprofit community club | §27-604.4 | | X | X | X |
| Day care center | §27-605.5 | | X | X | X |

**Table 27-4-3
Minimum Dimensional Requirements**

| | Zone District | | | |
|---|---------------|--------|--------|--------|
| | CON | R-1 | R-2 | R-3 |
| Lot area (square feet) | | | | |
| Single-family dwelling | 40,000 | 7,500 | 7,500 | 4,000 |
| Two-family dwelling | | 10,000 | 10,000 | 6,000 |
| Attached dwellings (townhouses) | | 20,000 | 20,000 | 10,000 |
| Garden apartments | | 20,000 | 20,000 | 10,000 |
| Mobile home park | | | 85,000 | |
| Lot width (feet) | | | | |
| Neither side abuts street | 120 | 60 | 60 | 40 |
| One side abuts street | 120 | 75 | 75 | 50 |
| Lot frontage (feet) | 50 | 50 | 50 | 40 |
| Front yard depth (feet) | 25 | 25 | 25 | 25 |
| Side yard depth (feet) | | | | |
| abuts another lot | 15 | 8 | 8 | 5 |
| abuts a street | 25 | 25 | 25 | 15 |
| Rear yard depth (feet) | | | | |
| principal building | 30 | 25 | 25 | 20 |
| accessory building | 15 | 8 | 8 | 8 |
| Lot area per attached dwelling or apartment unit (square feet) | | 3,000 | 3,000 | 2,000 |
| Note: minimum lot areas for uses other than those listed above may differ from those shown; check text for specific minimum lot areas for each permitted and conditional use. | | | | |

Part 5**Supplementary Regulations****§27-501. Minimum Lot Size and Frontage.**

1. *Lots of Record Lacking Minimum Area or Frontage.* A lot legally recorded before adoption of this Chapter, containing less lot area and/or lot frontage on a public street than required, may be developed for any use permitted in the zone district where the lot is located without application for a variance provided:

A. No reduction of front, side or rear yards is required to accommodate the proposed development.

B. The lot does not abut along a common side lot line property in the same ownership.

C. If public sewer and water are not available, the Borough Sewage Enforcement Officer certifies the lot as being acceptable for on-lot sewage disposal and specifies the location and type of sewage disposal method that will be required.

2. If two or more vacant lots in the same ownership exist side-by-side and one or more contain less area or frontage than the minimum required, the lots shall be combined or resubdivided to create lots meeting at least the minimum area and/or frontage requirements.

3. *Determination of Lot Area If Lot Extends to Street Center Line.* In such case the street right-of-way shall be assumed to be 40 feet wide and a strip 20 feet wide across the front of the property shall be excluded from the lot in determining area.

4. *Number of Principal Permitted Uses on a Lot.* Only one principal permitted use shall be allowed on an undivided property, and only one dwelling building shall be permitted on a lot except in the case of a mobile home park, a townhouse or apartment development, or a second use on a lot situated so that if the property is later subdivided both uses will occupy lots meeting all area, setback and frontage requirements that apply in the zone district and each will have separate access to a public street.

5. All lots created by subdivision after the effective date of this Chapter shall be processed and approved by the Westmoreland County Planning Department.

6. Any lot proposed for development with a structure requiring a water supply shall be either connected to the public sewage disposal system or to a disposal system on the lot approved by the Borough Sewage Enforcement Officer.

(Ord. 196, 4/14/1986, Art. V, §5.10)

§27-502. Regulations in Required Yards.

1. When a vacant lot exists between developed lots, a structure may be erected on the vacant lot so that it is set back from the street not less than the average setback of structures on the developed lots on either side, or 25 feet, whichever is less. If a vacant lot exists next to a developed lot on one side, a structure may be erected on the vacant lot so that it is set back from the street not less than the setback of the structure on the developed lot and 25 feet, or set back 25 feet, whichever is less.

2. *Permitted Projections into Yards.* Roof overhangs, chimneys, open balconies,

bay windows, fire escapes, and covered porches may extend up to 5 feet into a required front, side or rear yard, but not closer than 3 feet to a property line.

3. *Uses Permitted in Required Yard Areas.* Driveways, patios and parking areas, may be extended to within 1 foot of any property line, and fences and hedges to any property line but paved areas may not drain on to neighboring properties or adjacent streets. Neighbors may agree to extend paved areas to their mutual property line.

4. *Hedges and Fences as Obstructions.* Fences or hedges ,along property lines shall not exceed 7 feet in height. At street corners fences and hedges shall be held back to assure adequate vision for drivers approaching the intersection on each street. [*Ord. 2003-?*]

(*Ord. 196, 4/14/1986, Art. V, §5.20; as amended by Ord. 2003-?, -/-----*)

§27-503. Maximum Building Height.

1. *Maximum Height.* No building containing a principal permitted or conditional use shall exceed three stories or 35 feet in height, whichever is less, and accessory buildings shall not exceed 15 feet in height.

2. *Measurement of Height.* Height shall be measured as the vertical distance between ground level and the top of the wall or the top of the roof, using the wall with the lowest ground level. On a sloped-roof building the top of the wall shall be considered as half-way between the roof's eave line and ridge line.

3. *Exceptions.* Chimneys, church steeples, flagpoles, water tanks, silos, mechanical equipment mounted on a roof and communications equipment erected to meet the standards of the Federal Communications Commission shall be exempt from the maximum height regulations.

(*Ord. 196, 4/14/1986, Art. V, §5.30*)

§27-504. Individual Mobile Homes on Their Own Lot.

1. Such mobile homes shall meet all requirements of this Chapter for single-family homes, including the securing of a building permit.

2. They shall be supported directly on a peripheral masonry foundation carried at least 3 feet below grade. The area below the floor shall be ventilated but completely enclosed by a masonry wall.

3. Mobile homes shall be placed on their foundations not later than 30 days after arrival on the lot.

4. No mobile home shall be occupied until the Zoning Officer verifies that connection has been made to approved sewer and water services.

5. Mobile homes shall be securely tied down to their foundations by exterior over-the-top or built-in steel straps at each corner and at one intermediate point each side.

6. No mobile home lacking toilet and washing facilities or cooking and food storage facilities shall be permitted for permanent occupancy.

7. No mobile home shall be removed from the Borough until the owner has secured certification that all Borough, School District and County taxes past and current have been paid in full.

8. Any mobile home brought into the Borough on or after the effective date of this

Chapter shall comply with the National Manufactured Housing Construction and Safety Standards Act, as amended.

(*Ord. 196, 4/14/1986, Art. V, §5.40*)

§27-505. Apartments and Attached Dwellings.

1. Any single-family dwelling in a residential zone district may be converted to a two-family dwelling provided that after conversion each dwelling will have at least 360 square feet of floor area, its own toilet, lavatory and shower or tub in a separate room, as well as a stove, refrigerator and food preparation area, and each dwelling has two means of egress directly to the outside and not through the other dwelling.

2. Apartments constructed in a new building shall contain at least 360 square feet in an efficiency apartment, at least 480 square feet for a one bedroom apartment, and at least 550 square feet for a two bedroom unit. Each apartment shall also contain a toilet, lavatory and shower or tub in a separate room, as well as a stove, refrigerator and food preparation area. There shall not be less than 2,000 square feet of lot area per apartment if in the R-3 Zone District, and the minimum lot size shall be not less than 10,000 square feet.

3. Attached single-family dwellings (townhouses) shall contain at least 450 square feet of floor area at the ground level, and there shall be not more than eight dwellings attached in one group. The average distance within a group between the center lines of adjacent walls separating dwellings shall be not less than 18 feet and no two adjacent wall center lines shall be closer together than 16 feet. Walls controlled by this section shall include exterior walls parallel to walls separating dwellings. Each dwelling shall have front and rear entrances at grade as remote as possible from each other. No lot for sale or lease containing a townhouse shall be less than 2,000 square feet in area if in the R-3 Zone District and the minimum lot size to receive a townhouse group shall be not less than 10,000 square feet.

4. Where several apartment building or townhouse groups occupy the same or adjacent lots, such buildings shall be separated by at least 40 feet when the long walls of adjacent buildings face each other, at least 20 feet when a long wall faces an end wall, and at least 10 feet when end walls face each other, regardless of the location of property lines.

(*Ord. 196, 4/14/1986, Art. V, §5.50*)

§27-506. Off-Street Parking.

1. Any development constructed or expanded after the effective date of this Chapter shall provide off-street parking in accordance with this Part. Where several uses share the same lot, the parking requirements of each shall be added together to determine the total parking to be provided.

2. Each parking space in a lot shall contain at least 180 square feet and be at least 9 feet in width, exclusive of access lanes. Access lanes shall be at least 22 feet in width. The near edge of a parking lot shall be no farther away from the entrance of the use it serves than 200 feet and may be on a second property in the same ownership as the use served, or leased for the life of the use. For a single-family detached or two-family dwelling. The garage and driveway on the property may be used to meet the off-street parking requirements.

3. *Parking Lot Surfaces.*

A. Where parking is provided for eight or fewer vehicles on a lot, the surfacing may be not less than 4½ inches of well-choked and compacted crushed limestone or slag base course.

B. Where parking is provided for more than eight vehicles on a lot the base course described in paragraph .A, above, shall be surfaced with a one or two layer bituminous course not less than 2 inches in depth provided and placed in accordance with Penn DOT specifications, or equivalent concrete surfacing.

4. *Slopes and Drainage.*

A. Parking lots shall be sloped not less than ½ percent nor more than 6 percent, to a storm drain if the lot is paved.

B. When the slope extends downhill from the edge of a parking lot, the edge shall be protected by a curb or stop bars.

C. Stormwater on a paved lot shall be collected in the lot and directed to a storm inlet or a recognized drainageway or stream.

5. *Screening and Setback of Parking.*

A. Parking lot paved edges shall be set back from property lines at least 2 feet.

B. Where a parking lot designed for more than eight vehicles abuts other properties developed with housing, the parking lot shall be screened along the common property line by a hedge maintained at a height of not less than 4 feet, or a fence or wall of the same height.

C. Council may approve a natural change of grade along property lines or existing natural vegetation as a screen in lieu of a hedge, fence, or wall, upon application of the developer.

6. *Schedule of Parking Requirements.*

A. Single-family detached dwelling or two-family dwelling—two spaces per dwelling unit.

B. Townhouse, garden apartment, conversion apartment or apartment over a store—one and a half spaces per dwelling unit.

C. Home occupation, small business venture, medical or dental clinic, business or professional office, veterinarian clinic, or neighborhood retail business—one space for each 250 square feet of floor area devoted to the business.

D. Nonprofit club or other assembly space without permanent seating—one space for each 100 square feet of floor space in the main hall or meeting room.

E. Church—one space for each four persons, who can be seated simultaneously in the sanctuary.

F. Restaurant or tavern—one space for each three persons who can be seated simultaneously at tables and at the bar.

G. Gasoline service station—two parking spaces outside the circulation area surrounding the pump islands and garage entrance.

H. Funeral home—six spaces for each reposeing room.

I. Motel—one space for each sleeping room.

J. Boarding or lodging home—one space for each boarder or lodger.

K. Foster care home or day care center—three spaces.

L. Roadside stand, commercial nursery or greenhouse—six spaces or one space for each 500 square feet of enclosed floor space, whichever is greater.

M. Nursing or convalescent home—one space for each two beds.

(Ord. 196, 4/14/1986, Art. V, §5.60)

§27-507. Signs.

1. Signs erected or placed in any zone district after adoption of this Chapter shall be subject to regulation by this Part.

2. No sign illuminated by a flashing, pulsating, or intermittent source, no sign with moving parts, no strings of bare bulbs and no signs lighted in such a manner as to cause glare conditions on adjacent streets or properties shall be permitted. No sign shall obstruct sight distances for, or confuse motorists. No sign shall extend into a public right-of-way except signs placed by a governmental body.

3. Only the following types of signs shall be permitted. Identification of the occupant of a property and his address; real estate sales sign; identification of contractor while employed on the same property; identification of any business permitted by this Chapter on the same property; sign or bulletin board of a church or other public or nonprofit organization; sign authorized and erected by any level of government.

4. Signs may be free-standing on their own support or attached to the principal building or to a fence on the property. Signs advertising a business may be lighted from a hidden or internal source during business hours.

5. No sign shall be placed so that its topmost point is greater than 25 feet above the ground level below.

6. No sign shall exceed 4 square feet in area (each side if more than one) except business signs or signs identifying a church or other nonprofit organization which shall not exceed 32 square feet in area each side. Signs identifying a home occupation shall not exceed 4 square feet in area each side.

7. If more than one sign occurs on a property, the total area of the several signs shall not exceed the maximums specified in subsection .6 above.

8. When a business moves or closes, signs advertising it shall be removed within 30 days of termination.

9. In a particular instance, Borough Council may approve signs not in accordance with these regulations for specific community events.

(Ord. 196, 4/14/1986, Art. V, §5.70)

§27-508. Site Development.

1. *Review of Plans for Attached Single-Family, Garden Apartment, and Commercial Developments.*

A. Before a zoning permit may be issued for such a building or grouping of buildings or to expand such a grouping, the developer shall present a plan of his proposal to the Planning Commission.

B. The plan shall clearly show on a scaled drawing the location and height of all buildings proposed and existing to remain relative to property and street lines, number of dwelling or commercial units in each building, access drives from adjacent streets, layout of parking areas showing the number of spaces, location of public sanitary sewer and water lines, proposed grading including degree of slope and methods to control and dispose of storm water.

C. The Planning Commission shall review the plan at its next monthly meeting after receipt, and shall render a decision to approve the plan as submitted, approve it with specific modifications or conditions or reject it, not later than the second regular meeting after first reviewing the proposal. Any conditions attached to approval shall be included on the zoning permit. If the developer withdraws and then resubmits the plan, the review time period shall begin again with the resubmission. If the plan is approved as submitted or the developer accepts the modifications or conditions attached to approval, the Commission shall authorize the issuance of a zoning permit. Otherwise, the plan shall be considered as rejected. A developer whose plan has been rejected or who objects to conditions attached to the plan by the Commission may appeal to Borough Council to approve the plan or remove or relax specific conditions.

D. Council or the Planning Commission may at its option call and hold a public hearing on the plan prior to rendering a decision.

2. *Grading.*

A. Earth movement shall result in finished grades that do not exceed two horizontal to one vertical unless a report prepared by a professional engineer indicates that specific steeper slopes in a particular location will not compromise the stability of the completed slope or areas above or below it.

B. Topsoil shall be removed and stockpiled before the start of grading. Graded slopes shall be planted with a fast-catching grass cover as soon as grading is completed.

C. Where fill is used it shall be placed in layers not exceeding 12 inches in depth, thoroughly compacted, and keyed in to undisturbed earth at the edges of the fill. Fill shall be considered any material that has been brought to or moved on the site.

3. *Drainage.*

A. Stormwater shall not be permitted, as a result of development undertaken after adoption of this Chapter, to collect upon any property; or to pass from one property onto another in a concentrated flow without benefit of an easement; or to cross a public street on the surface.

B. In any townhouse, garden apartment or commercial development, the application to Borough Council shall be accompanied by a plan to indicate how stormwater will be collected and removed from the property.

C. Council may require, where no subsurface storm drainage system is available and/or where large areas are to be covered with structures and paved surfaces, that developers provide storm retention vessels on their properties of sufficient capacity to hold the flow from the 50-year storm of record (4.7 inches in 24 hours) for release at the 10-year rate (3.8 inches in 24 hours). Council may ask the Westmoreland County Conservation District for assistance in determining need

for, and adequacy of, stormwater management facilities.

4. *Flood Prone Areas.*

A. Areas identified as within the 100-year floodplain by the Federal Insurance Administration Flood Insurance Study for the Borough, shall not be developed with structures whose lowest floor elevation is less than 1½ feet above the 100-year flood elevation at the proposed building site. If the structure is for strictly commercial purposes, the lowest floor elevation may be below that level as long as the building is flood-proofed to 1½ feet above the 100-year flood elevation.

B. Until definitive studies by the U.S. Army Corps of Engineers have established specific flood levels, the preliminary report by the Department of Housing and Urban Development and the highest known water level at a particular location shall be used to establish the 100-year flood level.

C. No new construction may encroach on any existing stream or drainageway or constrict its natural flow characteristics.

D. No flammable or toxic substances or buoyant containers shall be stored within the floodplain.

(Ord. 196, 4/14/1986, Art. V, §5.80)

§27-509. Slaughterhouses.

1. *Definition and Interpretation.* The word “person,” as used in this Section, shall mean any natural person, partnership, association, firm or corporation. The singular shall include the plural and the masculine shall include the feminine and the neuter.

2. *Distance of Slaughterhouses from Dwellings.* No person shall establish any slaughterhouse within the limits of the Borough, within 300 feet of any dwelling house.
(Ord. 196, 4/14/1986; as added by Ord. 2015-04, 12/14/2015)

§27-510. Fences and Walls in Residential Districts.

1. For the purposes of this Chapter, shrubs and hedges shall be regulated as fences and walls when located within a Residential District and shall be regulated as stated in this Section.

2. All fences and walls require zoning permits regardless of the proposed height.

3. Fence or wall height shall be measured from grade and shall not exceed 6.5 feet in height at any point.

4. No portion of an opaque fence or wall erected within a clear vision triangle may exceed 2.5 feet in height,

5. Fences and walls may be constructed of stone, brick, wood, vinyl, chain link or wire, wrought iron, aluminum, and ornamental concrete block, provided all other requirements herein are met. The finished side of the fence or wall shall face outward.

6. Fences or walls erected in front of any front setback shall not exceed 4 feet in height.

7. Fences and walls may be located up to but not on a property line. In no case shall a fence or wall be located closer than 1 foot from a sidewalk or other public right-of-way.

8. Pen enclosures for animals shall be regulated as accessory structures.
(*Ord. 196, 4/14/1986; as added by Ord. 2015-04, 12/14/2015*)

Part 6**Conditional Uses****§27-601. Review and General Criteria.**

1. Such uses are listed for each zone district in Part 4 of this Chapter.
2. A request for approval of a conditional use to the Planning Commission shall be accompanied by a statement demonstrating that the proposal will not endanger the public health or safety at the selected location; will not deteriorate the environment or create nuisance conditions, such as traffic congestion or excessive noise, glare, smoke, dust, or vibration; and that the proposal meets all other requirements in the zoning district.
3. The developer shall submit, in addition to the statement, a site plan of his proposal showing existing and proposed buildings, with use of each building noted, uses of all adjacent properties and of those directly across an intervening street, points of access into the property, internal drives and parking areas, and topographical features, including proposed grading, if any (with degree of slope shown).
4. The Planning Commission shall review the plan at its next regular meeting after submission and shall recommend to Council that the plan be approved as proposed, approved with specific conditions attached, or disapproved. The Planning Commission's decision shall be made not later than the second regular meeting after first reviewing the plan. The Commission shall immediately send its recommendation to Council. At its first regular meeting after the plan is submitted, Borough Council shall schedule a public hearing on the proposal, properly noticed (see definition in §27-202). Council shall hold the hearing and consider the testimony received, as well as the recommendations of the Planning Commission, before making a decision which shall occur not later than the third regular Council meeting after the submission was received.

Council may attach reasonable conditions and safeguards, in addition to those contained in this Part, as it may deem necessary to protect the public health, safety and welfare. If granting approval, Council shall immediately authorize the Zoning Officer to issue a zoning permit for the proposal. If Council denies approval, it shall inform the developer of the specific reasons for the denial. Failure of the developer to accept conditions attached to approval shall constitute disapproval. Any conditions attached to approval shall be noted on the zoning permit.

[Ord. 206B]

5. The following are general guidelines to be considered in evaluating a conditional use:
 - A. *Building Setback from Property Lines.* Buildings shall be set back at least the same minimum distances as apply to permitted uses in the zone district.
 - B. *Property Access.* Entrances should be located as remote as possible from street intersections and to give motorists the greatest view of conflicting traffic.
 - C. *Off-Street Parking.* Shall be provided as required by §27-506.
 - D. *Signs.* Shall meet the regulations of §27-507.

E. *Site Development*. Shall meet the regulations of §27-508.

F. *Lighting of Property*. Should be the least needed to provide illumination and directed away from adjacent streets or housing.

G. *Landscaping*. Areas not paved or occupied by buildings should be planted and maintained.

H. *Permanent Building*. Businesses shall be operated from a permanent building on the property.

I. *Hours of Operation*. Council may control hours of operation if late night activity might cause hardship to nearby residents.

(Ord. 196, 4/14/1986, Art. VI, §6.10; as amended by Ord. 206B, 8/13/1990, §2)

§27-602. Conditional Residential Uses.

1. *Attached Single-family Dwelling (Townhouse) (R-1 and R-2)*.

A. No more than eight dwellings shall be in an attached group, each not less than 500 square feet on the ground floor level. No individual townhouse lot shall be less than 3,000 square feet in area.

B. When dwellings are located side-by-side the distance between center lines of party walls shall be not less than 18 feet and the average of all such distances in one group shall be not less than 20 feet. The minimum lot size to receive a townhouse group shall be not less than 20,000 square feet.

C. Off-street parking may be pull-in spaces off a rear or side alley, but such parking shall be on the same property as the dwelling and shall be paved.

D. Each dwelling shall have front and back entrances at grade, or two entrances as remote as possible from one another.

2. *Garden Apartment Buildings (R-1 and R-2)*.

A. Apartments shall be sized and equipped as required by §27-505.2 except there shall be at least 3,000 square feet of lot area per apartment and the minimum lot size to receive an apartment building shall be not less than 20,000 square feet.

B. Apartment buildings shall be separated as required by §27-505.4 of this Chapter.

C. Off-street parking may be pull-in spaces off a rear or side alley provided such spaces are paved and on the same property as the apartment building or on a second property in the same ownership as the apartment building and not more than 200 feet distant from an entrance to the building.

3. *Nursing, Convalescent or Retirement Home (R-1, R-2, R-3)*.

A. Construction of a new building or renovation of an existing building shall have been approved by the State Departments of Labor and Industry and of Health prior to the issuance of a building permit.

B. The number of retirement apartments or nursing or convalescent beds shall be not more than the property area in square feet divided by 1,500 if in the R-1 District or by 1,000 if in the R-2 District.

C. A nursing home shall be one in which permanent skilled care of bed-ridden patients is provided. A convalescent home implies temporary long term skilled care

for those recovering from serious illness before returning home. A retirement home provides permanent residence for elderly persons requiring minimum care but may include communal dining. Apartments for elderly shall be for not more than two individuals, at least one of which shall be 62 years old or older.

4. *Boarding or Lodging Home (R-1, R-2, and R-3).*

A. A single-family detached dwelling may be owned by or rented to not more than five boarders or lodgers who are not all related by blood, marriage or adoption or any combination totaling five, provided one off-street parking space is available on the lot for each boarder or lodger.

B. The family residing in a single-family or two-family dwelling may rent a room or rooms in the dwelling to not more than two boarders or lodgers as an accessory use not requiring conditional use approval.

5. *Mobile Home Park (R-2).*

A. Any mobile home park developed or expanded after the adoption of this Chapter shall have been approved by the Pennsylvania Department of Environmental Resources and by the Westmoreland County Planning Commission prior to the lease of any lease lots in the park.

B. No part of a mobile home shall be less than 25 feet from a park property line or public street right-of-way line.

C. Each mobile home lease lot shall contain at least 4,000 square feet of area and have a width of at least 40 feet along a line not more than 15 feet back from the abutting park street.

D. No two mobile homes shall be closer to one another than 25 feet, except that two adjacent homes not parallel to each other may be no closer together than 20 feet provided the average separation is at least 25 feet.

E. Except for laundry facilities, a building for park maintenance equipment, a recreation area for park residents, and/or the residence of the owner or operator of the park, there shall be no other uses within a mobile home park.

F. Mobile homes may be placed on a mesh reinforced concrete pad at least 4 inches thick prepared with all utility connections prior to the arrival of the mobile home at the park, or mobile homes may be placed on at least two masonry piers (or a peripheral masonry foundation) extended to at least 3 feet below grade, such support structure to be completed not later than 30 days after arrival of the mobile home at the park.

G. The area between the bottom of the mobile home walls and the ground below shall be ventilated but completely enclosed by a masonry, metal or vinyl skirting.

H. Mobile homes shall be securely held to their foundations or pads by built-in or exterior over-the-top tie-downs at each corner and at least one intermediate point each side.

I. No mobile home shall be occupied until the Sewage Enforcement Officer verifies that it has been connected to public sewer and water lines.

J. It shall be unlawful for a mobile home to be removed from the Borough until all taxes owed the Borough, School District and County have been paid in full,

as verified by the tax collector.

K. Except where the regulations of this Chapter establish a specific standard, the regulations of the Westmoreland County Mobile Home Park Subdivision Regulations shall apply.

L. Any mobile home brought into a mobile home park on or after the effective date of this Chapter shall comply with the National Manufactured Housing Construction and Safety Standards Act, as amended.

(Ord. 196, 4/14/1986, Art. VI, §6.20)

§27-603. Business Uses in Residential or Conservation Districts.

1. *Commercial Nursery or Greenhouse (CON, R-1 and R-2).*

A. Retail sales on the premises shall only be of crops grown there and may be from a temporary or permanent sales building.

B. In addition to buildings to house the business, the property may also include the single-family detached dwelling of the owner or operator.

C. Any materials used in the business that are odiferous shall be stored in a closed container or closed building prior to application on the crop fields.

D. No burning of residue plant materials shall occur on the premises.

2. *Veterinary Clinic or Commercial Kennel (CON)*

A. Any overnight holding of animals shall be in pens inside an enclosed building.

B. No animal remains shall be disposed of on the premises.

C. No part of any kennel building or holding area or a clinic building shall be closer than 100 feet from the nearest lot line.

D. The residence of the owner or operator may also occupy the property, but no other residential uses.

3. *Home Occupation (CON, R-1 and R-2).*

A. It may occur in a single-family detached dwelling but not in accessory buildings.

B. It shall be operated by the residents of the dwelling and employ no outside help.

C. No exterior changes shall be made to the dwelling to accommodate the home occupation.

D. Retail sales shall be no more than an incidental part of the occupation.

E. Personal services shall be provided only on an appointment basis.

F. Items to be repaired shall be limited to those that can be carried in by one person.

G. If the dwelling is rented, the residents shall have written permission from the owner before commencing the home occupation.

4. *Small Business Venture (CON).*

A. Such a business may occupy an area outside the dwelling, including an accessory building.

B. The business shall be operated by the residents of the dwelling on the same property and employ no outside help.

C. If the premises are rented, the residents shall have written permission from the owner before commencing the business.

D. No part of the business shall occur within 100 feet of any property in another ownership.

E. No scrap metal or other residue from the business shall be stored outside a building.

F. Any outdoor areas used in the business, except off-street parking for customers, shall be screened from view from adjacent dwellings by a hedge or fence at least 4 feet in height or natural landscaping or change of grade.

G. Before acting on a small business venture, Council shall call and hold a public hearing.

5. *Parking Lot for a Permitted or Conditional Use in an Adjacent Zone District (R-1 and R-2).*

A. Such a lot shall be paved.

B. Drainage from the lot shall be directed towards a storm sewer or to the landscaped edges of the lot but shall not be permitted to flow on or over any adjacent street or property.

C. The edges of the lot shall be landscaped with a low evergreen hedge maintained at a height of not more than 4 feet, or by a fence or wall of the same height wherever the lot abuts or is directly across the street from any property occupied by dwellings of any type.

6. *Medical or Dental Clinic (R-3).*

A. The facility shall be for out-patient care and include no overnight accommodations.

B. The clinic shall be operated by licensed medical doctors, dentists and/or chiropractors.

C. There shall be no residential accommodations on the same property and laboratory work shall be only for patients of the clinic.

D. The parking lot shall be developed in accordance with subsection .5.

7. *Business or Professional Office (R-3).*

A. The building shall be set back from property lines as required for residential buildings.

B. No parking area shall occur in the front yard of the property.

C. The parking area shall be developed in accordance with subsection .5.

8. *Funeral Home (R-3).*

A. Transfer of caskets to and from a hearse shall occur within an enclosed garage.

B. The building may also include the residence of the owner or operator.

C. The parking area shall be developed in accordance with subsection .5.

9. *Commercial Recreation Establishment (R-3).*

- A. All activity shall occur entirely within an enclosed building.
- B. The establishment shall not generate excessive noise or glare.
- C. Tables or electronic game machines used in the establishment shall be separated by at least 4 feet on all sides except one side may be against a wall.
- D. There shall be a representative of the management on the premises at all times the establishment is open responsible for customer behavior.
- E. Council shall call and hold a public hearing before deciding on any proposal for a commercial recreation establishment.

10. *Gasoline Service Station (R-3).*

- A. Pump islands shall not be closer than 10 feet to any street right-of-way. Over-hanging canopies shall not extend into a right-of-way.
- B. All auto servicing except normal activities at the pump island shall occur within an enclosed building. Services shall not include spray painting, major engine overhaul, bodywork or tire recapping.
- C. Waste greases and oils and discarded car parts and tires shall be stored within the station building for disposal off the property.
- D. Wherever the station property abuts a lot in residential use along a side or rear line, there shall be provided an evergreen hedge, maintained at a height of not less than 4 feet, or an opaque fence of the same height, on the common property line.
- E. No derelict or wrecked vehicles shall be kept on the premises at any time.

11. *Restaurant or Tavern (R-3).*

- A. Any restaurant shall provide sit-down tables in an enclosed building for customers.
- B. If food is provided from a window directly to customers in cars, room shall be provided on the lot so that at least three cars can wait in line in advance of the pick-up window.
- C. If food is available for take-out, there shall be litter baskets available in the parking areas and the premises shall be cleaned up daily.
- D. The parking area shall be developed in accordance with subsection .5.

12. *Motel (R-3).*

- A. Units shall be for transient guests only; no guests shall remain for more than 14 days.
- B. Except for a restaurant and paved parking area to serve the guests and the apartment of the owner or operator, the property shall contain no other uses.

13. *Neighborhood Retail Business (R-3).*

- A. Any neighborhood business type that may be proposed and is not listed in §27-405.3.K shall not be acted on by Council until after a public hearing has been held on the matter.
- B. The dwelling of the owner or operator, or apartments in accordance with §27-505.2 may occupy the same building.
- C. The parking area shall be developed in accordance with subsection .5.

(Ord. 196, 4/14/1986, Art. VI, §6.30)

§27-604. Other Conditional Uses.

1. *Recreation Areas (CON).*

A. Earth and vegetation disturbance shall be kept to an absolute minimum.

B. Structures shall be only the minimum to serve the proposed development. Several small buildings will be preferred to one large one.

2. *Cemetery (CON).*

A. Grave sites shall be set back from street and property lines no less than for a dwelling.

B. No crematorium shall be permitted.

C. Earth and vegetation disturbance shall be kept to a minimum consistent with the use.

3. *Place of Worship (R-1, R-2 and R-3).*

A. It shall not be located with its only access on a dead end street.

B. The facility may include the residence of the minister or priest but no other residential accommodations.

C. Part or all of the parking requirements may be met in a parking lot shared with a commercial use whose hours do not conflict with normal times of church attendance. If a separate lot for the church is provided, it shall be developed in accordance with §27-603.5.

4. *Non-profit Community Club (R-1, R-2 and R-3).*

A. The club shall be affiliated with a State or National organization.

B. The dwelling of the owner, operator or caretaker shall be the only residence on the premises.

C. The club shall be open only to members and their guests.

5. *Day Care Center (R-1, R-2 and R-3).*

A. Such a facility may be in a church building, or in a single-family detached dwelling.

B. If the facility is in a dwelling, it shall be operated by the family residing there and shall accommodate no more than six preschool age children or dependent adults.

C. There shall be no overnight housing.

D. The operation shall be approved by the State Department of Welfare and the Westmoreland County Department of Health.

(Ord. 196, 4/14/1986, Art. VI, §6.50)

Part 7**Nonconforming Uses****§27-701. Application.**

1. A nonconforming use is an activity which was present on a property before this Chapter was adopted but is not among the list of permitted or conditional uses for the zone district in which the property is located. A nonconformity may later be created by an amendment to the zoning text or map, but in no other manner.

2. A nonconforming structure is one that was constructed on its property before adoption of this Chapter with its setback from one or more property lines less, and/or height greater, than the standards established for the zone district containing the property.

(*Ord. 196, 4/14/1986, Art. VII, §7.10*)

§27-702. Nonconforming Uses.

1. A nonconforming use may be expanded by 25 percent beyond the area on the ground it occupied when this Chapter was adopted but not onto land acquired by the owner of the use after adoption of this Chapter. A nonconforming structure may be expanded by 25 percent in volume over the volume of the structure when this Chapter was adopted. In neither case shall such expansion occur outside the setback lines within the property. A nonconforming use may be expanded to occupy all of a structure it occupied in part when this Chapter was adopted but then may not be further expanded.

2. If a nonconforming use is discontinued for a period of at least 1 year for any reason, any use of the property thereafter shall be in conformance with the development regulations for the zone district containing the property. If the owner of the nonconforming use claims the 1-year period is too short because of financial, health or other hardship, he may appeal to the Zoning Hearing Board for an extension not to exceed 1 additional year. Discontinuance of a nonconforming use shall be indicated by the removal of stock-in-trade and/or permanent equipment needed to operate the use.

3. A nonconforming use may be changed to a second nonconforming use provided that an application for the second use is filed with the Zoning Hearing Board and the Board finds that the proposed use is more compatible with the uses permitted in the zone district than the preceding nonconforming use.

4. A nonconforming use may be sold by one owner to the next but each succeeding owner of a nonconforming commercial or industrial use shall receive approval of the Zoning Officer before commencing operation to assure that the use will be operated in the same manner as formerly.

5. Once a nonconforming use is changed to a conforming use it may not thereafter revert to nonconforming status. If a nonconforming use occupies a building and is discontinued, any nonconforming use of the property shall also cease.

(*Ord. 196, 4/14/1986, Art. VII, §7.20*)

§27-703. Nonconforming Structures.

1. No structure shall be enlarged or altered to create a nonconformity or increase

an existing nonconformity except in compliance with §27-702.1.

2. Replacement of a nonconforming structure shall be done with respect to the setback and height requirements for the zone district containing the property, except that if the owner alleges a hardship he may petition the Zoning Hearing Board to grant approval of replacement on the foundation of the building to be replaced but in no case in a location more nonconforming than the original location.

(*Ord. 196, 4/14/1986, Art. VII, §7.30*)

§27-704. Record of Nonconforming Uses.

1. At the discretion of Council, the Zoning Officer shall identify and record all uses of land and buildings in the Borough made nonconforming by adoption of this Chapter or future amendments. All uses that are not permitted by right or are not conditional uses in a particular zone district shall be considered nonconforming. The record shall indicate the reasons why the land and/or buildings are nonconforming. Nonconforming lots (see §27-501) and/or nonconforming structures may also be identified and recorded, if requested by Council. [*Ord. 206B*]

2. The Zoning Officer shall keep the record current as amendments to this Chapter create new nonconforming uses, and as removal of buildings and uses eliminates nonconforming uses.

3. The record may be kept by map or written documentation.

(*Ord. 196, 4/14/1986, Art. VII, §7.40; as amended by Ord. 206B, 8/13/1990, §3*)

Part 8**Zoning Hearing Board****§27-801. Operation of the Board.**

1. The members of the Zoning Hearing Board in office at the time of adoption of this Chapter shall continue until the expiration of their terms. Thereafter all reappointments by Borough Council shall be for 3 years. If a vacancy occurs on the Board, Council may fill it only for the unexpired portion. All appointments shall be residents of the Borough and none shall hold any other public office in the Borough, except that one may be a member of the Planning Commission. All appointments shall be residents of the Borough and none shall hold any other public office in the Borough. [Ord. 206B]

2. A Board member may be removed from office by majority vote of Council for malfeasance, misfeasance or nonfeasance in office or other just cause after a majority vote. The accused member shall be given 15 days notice before the vote and may request a public hearing in writing if he wishes to contest the proposed action.

3. The Board shall annually elect from its members a chairman, vice-chairman and secretary, all of whom may succeed themselves. The Board shall reorganize at its first meeting each year.

4. The chairman shall call and conduct hearings. The vice-chairman shall act in the chairman's absence. The secretary shall keep minutes of meetings, transcribe proceedings, distribute copies of testimony as needed, and place hearing advertisements, transcription and distribution of testimony may be assigned to others, not members of the Board.

5. The Board may appoint a Hearing Officer from its membership to conduct a hearing on its behalf if a quorum cannot be obtained. Members who have a conflict of interest with a case to be heard may excuse themselves from the hearing.

6. The Board shall keep full public records of its business and shall submit an annual report of its activities to Council, not later than the first of March each year.

7. The Board may contract for legal, stenographic or consulting services upon the approval of Council. The law firm retained by the Board shall not be the same one serving Council. [Ord. 206B]

8. Council may appoint by resolution one but not more than three residents of the Borough to serve as alternate members of the Board for 3 year terms. None shall hold any other public office in the Borough. Alternate members shall be selected in rotation by the Board Chairman to serve in the place of a regular member who is unable to sit on a particular case. The alternate shall have the full power and duties of the replaced regular member during the case, and may participate in any other proceeding or discussion of the Board but without the right to vote. [Ord. 206B]

(Ord. 196, 4/14/1986, Art. VIII, §8.10; as amended by Ord. 206B, 8/13/1990, §§4-6)

§27-802. Functions.

1. *Appeals from Decisions of the Zoning Officer.* The Board shall hear and decide appeals where it is alleged by the appellant that the Zoning Officer has failed to follow

prescribed procedures or has misrepresented or misapplied any provision of this Chapter.

2. *Challenges to the Validity of the Chapter or Map.* The Board shall hear such challenges on substantive questions, take evidence and make a written record. At the conclusion of the hearing the Board shall decide all contested questions and shall make findings on all relevant issues of fact which shall become part of the record on appeal to the Courts.

3. *Variances.* The Board shall hear requests for variances where it is alleged that the provisions of this Chapter inflict unnecessary hardship upon the applicant.

A. The written application for a variance submitted to the Board Secretary in advance of the hearing shall demonstrate, where relevant:

(1) That the property to be developed is of a peculiar shape or size and/or contains unusual topographic or other conditions creating a hardship.

(2) That because of these circumstances and not the regulations of the Chapter there is no possibility the property can be developed in strict accordance with the regulations.

(3) That such hardship has not been created by the appellant.

(4) That the requested variance, if granted, will not downgrade the character of the neighborhood, nor impair the future development of adjacent properties in conformance with the Chapter, nor undermine the public welfare.

B. If authorized, the variance shall represent the least deviation from the regulations that will afford relief.

C. In granting a variance the Board may attach appropriate conditions necessary to protect the intent of this Chapter and the public health and safety.

D. Under no circumstances shall the Board grant a variance to allow a use not permitted under the terms of the Chapter in the zoning district containing the property for which the variance is sought, or any use expressly or by implication prohibited by the terms of this ordinance in the zoning district.

4. *Appeals for Approval of Uses Not Listed in Any Zone District.* The Board shall hear appeals for the right to develop uses not specifically listed as permitted by right or conditionally in any zone district.

A. A developer proposing such a use shall first apply for a zoning permit and if denied, may appeal to the Board.

B. The Board shall hear the appeal and shall determine in which zone district the proposed use would be most appropriate, based on the permitted and conditional uses listed for each zone classification. The Board may also find that the proposed use is inappropriate in all zone districts of the Borough.

C. If the Board selects a zone classification, it need not necessarily be the one governing the appellant's property. The proposed use shall become a conditional use in the zone classification selected, and the Board shall attach appropriate guidelines for consideration of the conditional use.

D. The appellant may then, provided he has property in the selected zone classification, apply for conditional use approval as provided in Part 4.

(Ord. 196, 4/14/1986, Art. VIII, §8.20)

§27-803. Parties Appellant Before the Board.

An appeal, challenge or request for a variance may be filed in writing with the Secretary of the Board by, or on behalf of, any owner of land in the Borough, by any tenant wishing a variance with the permission of his landowner, or by any officer or agency of the Borough, or by any aggrieved person.

(*Ord. 196, 4/14/1986, Art. VIII, §8.30*)

§27-804. Hearings, Preliminary Activities.

1. When a request for a hearing is received by the Board Secretary, the Board shall schedule and hold the hearing within 60 days.

2. Hearings shall be conducted by the Board or by a Hearing Officer member, whose decision or findings, where no decision is required, may be considered final if acceptable to all parties.

3. The parties to a hearing shall be the Borough, the appellant, and anyone affected by the application and/or any civic or community organization who or which requests in writing the opportunity to appear prior to the hearing.

4. Notice of a hearing shall be mailed at least 15 days before the hearing to all parties, and in addition, to the Zoning Officer and to owners of properties adjacent to or directly across a street from the boundary of the property or properties affected by the hearing, as well as to others who have filed a timely request to receive notice.

5. Public notice shall be placed twice in a newspaper of general local circulation once in each of 2 consecutive weeks, the first not more than 30 days before the hearing and the second notice not less than 7 days before the hearing. In addition, if a variance is sought or an appeal requested, notice shall be placed conspicuously on the affected property at least 7 days before the hearing. [*Ord. 206B*]

6. Notices shall indicate the date, time and place of the hearing and the specific nature of the matter to be heard.

(*Ord. 196, 4/14/1986, Art. VIII, §8.40; as amended by Ord. 206B, 8/13/1990, §7*)

§27-805. Hearings, Conduct.

1. The Chairman or Hearing Officer shall have the power to administer oaths and issue subpoenas to compel attendance of witnesses and the production of relevant documents, including those requested by the parties.

2. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and arguments, and to cross-examine adverse witnesses on all relevant issues. Formal rules of evidence shall not apply but irrelevant, immaterial or unduly repetitious evidence may be excluded.

3. The Board or the Hearing Officer shall cause to have kept 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 for by the Board if the Board or Hearing Officer orders it, or by a person appealing the Board's decision if an appeal is made. Additional copies of the transcript shall be paid for by the parties requesting them. [*Ord. 206B*]

4. The Board, or the Hearing Officer, shall not communicate, directly or indirectly, with any party and/or representatives of any party in connection with any

issue relevant to the hearings, except upon notice and opportunity for all parties to participate; shall not take legal notice of any communications, reports or other materials unless all parties are afforded an opportunity to contest the material so noticed; and shall not inspect any site or its surroundings with any party and/or representative of any party after the start of hearings unless all parties are given an opportunity to be present.

5. The Board or Hearing Officer shall render a written decision, or when no decision is required, written findings on the application within 45 days after the conclusion of the hearing before the Board or Hearing Officer. Decisions shall be accompanied by findings of fact and conclusions based on them together with the reasons therefor. Conclusions based on any provisions of this Chapter or any other ordinance or regulation of the Borough or the State Planning Code shall contain a reference to the provision relied on and the reasons why a conclusion is deemed appropriate in the light of the facts.

6. If the hearing is conducted by the Hearing Officer and there is no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties who may submit representations to the Board. The Board shall convene, weigh the Hearing Officer's report and representations by the parties, and make a final decision or entry of findings not later than 30 days after the date of the Hearing Officer's report. [*Ord. 206B*]

7. When the Board or Hearing Officer fails to render a decision where it or he has the power to do so within 45 days after hearing the application, or fails to hold the public hearing within 60 days of receiving the request for one, the decision shall be deemed to have been rendered in favor of the applicant, unless he has agreed in writing to a specific time extension.

8. When the decision favors the applicant as a result of the Board's failure to render a decision or schedule a hearing, the Board shall give public notice of the decision within 10 days in a newspaper of general location circulation.

9. A copy of the final decision, or the findings if no decision is required, shall be mailed to the applicant not later than the day after the date of the decision. All others requesting notice of the decision not later than the last day of the hearing shall receive by mail a summary of the findings or decision and a statement of the place at which the full decision or findings may be examined.

(*Ord. 196, 4/14/1986, Art. VIII, §8.50; as amended by Ord. 206B, 8/13/1990, §§8, 9*)

§27-806. Zoning Appeals.

1. Once the Zoning Officer has acted on a development proposal pursuant to the regulations of this Chapter, any party may appeal the decision to the Board not later than 30 days after the Zoning Officer's action, unless the party can prove he had no knowledge of the decision within the 30-day period. A second party succeeding in interest, shall be bound by the first party's knowledge.

2. While an appeal is pending before the Board, any development affected by the appeal shall be halted unless the Zoning Officer certifies to the Board that suspension would cause imminent peril to life and property. In this case suspension will occur only by a restraining order granted by the Board or Westmoreland County Court. The party forced to stop shall have the right to petition the Court to require the appealing party

to post a bond as a condition of continuing the appeal, the amount to be determined by the Court. The Court shall hear the petition, determine whether the appeal is frivolous, and if so, may require the posting of the bond.

3. Appeals from decisions of the Board, or upon reports of the Board in proceedings to challenge the validity of this Chapter, shall be filed within 30 days of the decision or completion of the report, with the Clerk of the Westmoreland County Court of Common Pleas.

(Ord. 196, 4/14/1986, Art. VIII, §8.60)

Part 9**Administration****§27-901. Duties of the Zoning Officer.**

1. A Zoning Officer shall administer and enforce this Chapter in accordance with its literal terms. He shall be appointed by and be responsible to Council and shall hold no elective office in the Borough.

2. The Zoning Officer shall receive and process applications for zoning permits and permissions to occupy in accordance with this Chapter, and shall not permit any construction or any use or change of use which does not conform to this Chapter.

3. The Zoning Officer shall investigate alleged violations and take action in accordance with Section 4 of this Part. He shall also testify before the Zoning Hearing Board on contested decisions he has made or when otherwise called to testify. He shall not be denied access to any property in the course of administering and enforcing this Chapter.

4. All questions of interpretation of this Chapter shall be first presented to the Zoning Officer, who shall make a decision thereon. Such questions shall be considered by the Zoning Hearing Board only on appeal from the Zoning Officer's decision.

5. In addition the Zoning Officer shall represent the Borough at hearings before the magisterial district judge (see §27-904), shall maintain public files of all permits issued and applications processed, shall attend meetings of Council to provide a monthly report of his activities (see §27-902.8), shall examine permitted work in progress (see §27-902.5), and shall prepare and maintain a record of nonconforming uses (see §27-704). [*Ord. 2015-04*]

(*Ord. 196, 4/14/1986, Art. IX, §9.10; as amended by Ord. 2015-04, 12/14/2015*)

§27-902. Zoning Permits.

1. No building or structure including a mobile home shall be erected, moved, or enlarged unless a zoning permit for such action has been issued by the Zoning Officer. Permits shall not be required for the repaving of existing residential driveways, for painting, for repointing masonry, or for altering interior partitions or doorways when no structural changes are needed. Once a permit has been issued by the Zoning Officer, anyone aggrieved by that action may, within 30 days thereafter, appeal the action to the Zoning Hearing Board.

2. An application for a zoning permit shall include the following in duplicate on forms provided by the Zoning Officer. A site plan may be waived by the Zoning Officer if the application includes no construction outside the existing buildings on the lot.

A. A site plan drawn to scale showing the location of the proposed new construction on the property relative to property boundaries and abutting street, with distances indicated, the location of driveway entrances, signs, and off-street parking areas noting the arrangement of spaces, and any grading contemplated.

B. A statement describing the proposed use of the new construction and the length, width and height of its components.

C. Approval from the State Department of Labor and Industry if an enclosed structure other than a one family detached or two-family dwelling is proposed.

D. Affidavit of the applicant that all information provided is true and correct to the best of his knowledge.

3. If the application is satisfactory, the Zoning Officer shall inspect the premises where the construction is proposed to occur. If new construction is proposed, the Zoning Officer shall verify on the site the location of the construction relative to adjacent property lines and may order the owner to have stakes positioned by a registered surveyor to indicate the property line and outline of the new construction. Upon completing his inspection and finding the application and premises compatible, the Zoning Officer shall collect the appropriate zoning permit fee (see §27-906), approve the application and return one copy together with a signed zoning permit authorizing the applicant to proceed. The applicant shall post the permit prominently on the building site during construction.

4. If the application is not satisfactory, the Zoning Officer shall return one copy of the application together with a letter indicating the specific reasons why the application cannot be approved and the changes needed to make it acceptable.

5. The Zoning Officer shall from time to time visit the property whereon the approved construction is taking place in order to assure himself that the work is proceeding in accordance with the zoning permit. The Zoning Officer shall not be denied access to the property during working hours in order to inspect the construction in progress, and may order the work corrected to conform to the permit or halted pending appeal to the Zoning Hearing Board.

6. If an applicant wishes to amend the use, arrangement or construction of his building from that shown on the permit after the permit is approved, he shall file with the Zoning Officer an application for an amended zoning permit.

7. A zoning permit shall become void, if after 6 months from the date of issue, construction has not commenced and been vigorously pursued. The life of a zoning permit shall be 1 year from the date of issue. Permits may be extended for not more than 1 additional year on large projects or where the applicant can prove to the Zoning Officer a hardship exists making it impossible to complete the project in 1 year. Once a permit has become void, a replacement permit may be obtained in the same manner as for the original permit.

8. A permit shall be required for the removal of any building or part of any building. The applicant shall be responsible for backfilling any excavation created by the razing and for the removal of all debris on the lot within 60 days after the issuance of the permit.

9. The Zoning Officer shall keep records of all applications either approved or disapproved, including one copy of each permit issued, shall maintain a journal of his activities, and shall submit a monthly report and an annual summation report to Borough Council detailing building activity in the Borough during the preceding year. (*Ord. 196, 4/14/1986, Art. IX, §9.20*)

§27-903. Permission to Occupy.

1. Before the use of a property or structure can be changed, or a property occupied without the need of a zoning permit, the owner shall secure the approval of the Zoning

Officer in writing. Such approval shall be required also whenever a greater number of dwelling units are being installed in a structure, a home occupation is introduced or changed, or commercial premises are converted to a second commercial use.

2. The owner shall be responsible for the use of his property, even though he leases it to others, and for securing the necessary occupancy permission if needed.

(*Ord. 196, 4/14/1986, Art. IX, §9.30*)

§27-904. Enforcement and Penalties.

1. If the Zoning Officer finds any provisions of this Chapter are being violated, such as the operation of an illegal use or the locating of a structure illegally on a lot, he shall notify the owner of the property upon which the alleged violation is occurring by mail, with a copy to the Borough Secretary.

2. The notice shall indicate the suspected violation, citing specific paragraphs of this ordinance, the action necessary to correct the violation within 30 days or less, and the owner's appeal procedure.

3. At the end of the period within which the violation is to be corrected, the Zoning Officer shall inspect the property to determine if the violation has been removed. Unless the owner has appealed to the Zoning Hearing Board to reverse the Zoning Officer's decision, modify it or grant a time extension, the Zoning Officer shall take the owner before the magisterial district judge, who, if he finds the owner guilty, shall assess penalties and/or order appropriate action in accord with subsection .4. [*Ord. 2015-04*]

4. Continuation of a violation beyond the period within which it is to be corrected, without appeal having been filed, shall be grounds for a civil proceeding. While an appeal is in process development shall not continue on the contested portion of the project. Any person, partnership or corporation who or which has violated any provision of this Chapter or any amendment thereto shall, upon being found liable therefor in a civil enforcement proceeding brought by the Borough, pay a judgment of not more than \$500 plus all court costs including reasonable attorney fees incurred by the Borough. No judgment shall commence or be imposed, levied or payable until the date of determination of the violation by the magistrate. If the defendant neither pays nor appeals the judgment, the Borough may enforce the judgment through the rules of civil procedure. Each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected shall be paid over to the Borough. [*Ord. 206B*]

5. The owner or tenant of any structure, premises or part thereof, and any architect, engineer, builder, contractor, agent or other person who commits, participates in, assists in, or maintains a violation may each be found guilty of a separate offense and suffer the penalties herein provided.

6. Nothing herein contained shall prevent the Borough from taking such other lawful action as is necessary to prevent or remedy any violation, or to bring action to enjoin any violation of this Chapter.

(*Ord. 196, 4/14/1986, Art. IX, §9.40; as amended by Ord. 206B, 8/13/1990, §10; and by Ord. 2015-04, 12/14/2015*)

§27-905. Amendment of this Chapter.

1. An amendment of this ordinance may be initiated by the Planning Commission, by Borough Council or by petition presented to the Planning Commission by a property owner or owners, or by a person or corporation who or which has an option to purchase a property in the Borough. The proposed amendment or petition shall be written as proposed to be adopted. Revisions to the zoning map shall be specified in writing citing particular boundaries.

2. The Planning Commission shall review an amendment petition or a proposal by Council and prepare recommendations to Council not later than the Commission's second regular meeting after receiving the proposal. The Commission may recommend approval of the proposal as presented, approval with specific changes, or rejection. If the proposal is made by Council, Council shall allow the Commission at least 30 days to review and comment on the proposal before taking action.

3. Council shall call and hold a public hearing after reviewing the Commission's recommendations, or at least 30 days after submitting a proposal to the Commission for review. In addition Council shall send the proposal to the Westmoreland County Planning Commission for review and comment at least 30 days before the hearing.

4. Council shall advertise for its hearing twice in a newspaper of general local circulation, once in each of 2 consecutive weeks, the first notice not more than 30 days before and the second not less than 7 days before the hearing. The notice shall contain the full text of the amendment or a summary, reference to a place and times where and when the amendment may be examined before the hearing, and the date, time, place and purpose of the hearing. If the full text is not carried in the notice, the newspaper publishing the notice shall be provided a copy of the full text, and an attested copy shall be filed in the County Law Library. [Ord. 206B]

5. In addition, where a change of zoning district boundary is sought, the property or group of properties affected shall be posted in at least one conspicuous location not less than 7 days before the hearing with the same information as in the hearing advertisement. [Ord. 206B]

6. Council shall hold the hearing, keeping a written or sound record of the testimony, and shall make a decision by majority vote to adopt or reject the amendment within 90 days after the hearing. Within 30 days after enactment a copy of the adopted amendment shall be forwarded to the County Planning Commission. [Ord. 206B]

7. If an amendment is substantially revised after the hearing, or zoning district boundaries are further altered, Council shall hold another hearing on the revisions, before taking action.

8. If a landowner submits a curative amendment under the provisions of the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*, as amended, Council shall call and hold a public hearing within 60 days of receiving the petition and shall proceed as for any other amendment petition. If Council declares all or part of this Chapter invalid, it shall not be required to receive a curative amendment during the period of the Chapter review, but shall, within 30 days of its declaration, make a statement of the specific deficiencies it proposes to correct, and shall, within 180 days thereafter either adopt its curative amendment after public hearing or reaffirm the validity of the Chapter as it was prior to the declaration. Such action by Council may not again be taken for at least 3 years after deciding on a previous municipal curative amendment.

9. Appeal from a decision of Council on an amendment proposal shall be to the Westmoreland County Courts.

(*Ord. 196, 4/14/1986, Art. IX, §9.50; as amended by Ord. 206B, 8/13/1990, §§11–13*)

§27-906. Schedule of Fees.

1. Council shall establish by resolution a schedule of fees to cover the cost of permits, conditional use approvals, petitions to amend the ordinance, or any action brought before the Zoning Hearing Board.

2. The current fee schedule shall be available at the office of the Borough Secretary and may be amended, only by official resolution of Council.

3. No permit shall be issued nor any action taken on proceedings before Council or the Zoning Hearing Board until the appropriate fees have been paid in full.

(*Ord. 196, 4/14/1986, Art. IX, §9.60*)

§27-907. Enactment.

This Chapter is required for the immediate protection of the public health, safety and welfare and shall be effective upon its passage and signing by the officers of Council.

(*Ord. 196, 4/14/1986, Art. IX, §9.70*)

