

# **North East Borough**

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# **ZONING ORDINANCE**

**Ordinance No. 903**



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# **PART 1**

## **General Provisions**

### **Sec. 101 Title**

The official title of this Zoning Ordinance is “North East Borough Zoning Ordinance.”

### **Sec. 102 Definitions**

Certain words or terms that appear in this Zoning Ordinance are defined in Part 2.

### **Sec. 103 Compliance**

No structure shall be located, erected, constructed, reconstructed, moved, altered, converted, or enlarged, nor shall any structure or land be used or be designed to be used except in full compliance with all the provisions of this Zoning Ordinance and after the lawful issuance of all permits required by this Zoning Ordinance.

### **Sec. 104 Conflict**

Whenever there is a difference between minimum standards or dimensions or provisions specified herein and those contained in other regulations, resolutions, or Ordinances of the Borough, the highest standards shall govern.

### **Sec. 105 Community Development Objectives**

This Zoning Ordinance and Zoning Map are intended to promote, protect, and facilitate the public health, safety, morals, general welfare, ecological assets, coordinated and practical community development, proper density of population, civil defense, the provisions of adequate light and air, police protection, vehicle parking and loading space, transportation, water sewerage, schools, public grounds and other public requirements as well as preventing the overcrowding of land, light danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic, or other dangers, provide for energy conservation, preserve and protect aesthetic assets, provide for commercial and industrial development while respecting residential areas, and allow for a diversified housing mix. More specifically these broad purposes are designed to clearly achieve the objectives of the North East Regional Comprehensive Plan, and the North East Regional Comprehensive Plan updates.

## **PART 2**

### **Definitions**

#### **Sec. 201 General Definitions**

Except where specifically defined herein, all words used in this Zoning Ordinance shall carry their customary (dictionary) meanings.

- A. Words in the present tense shall include the future tense.
- B. The singular shall include the plural, and the plural shall include the singular.
- C. The masculine gender shall include the feminine and the neuter and vice versa.
- D. The word "shall" is always mandatory, and the word "may" or "should" is always permissive.
- E. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be occupied."
- F. Any word or term not defined in this Zoning Ordinance shall be used with a meaning of standard (Dictionary) usage.

**ACCESSORY USE / BUILDING:** A use or building customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

**ADULT DAY CARE CENTERS:** "Adult Day Care Centers offer social, recreational and health-related services to individuals, in a protective setting, who cannot be left alone during the day because of health care and social need, confusion or disability" (Source: U. S. Department of Health and Human Services).

**ALLEY:** A narrow service way providing a secondary means of access to abutting properties.

**AMERICANS WITH DISABILITIES ACT (ADA):** The Americans with Disabilities Act of 1990.

**AREA:** Area of a lot or site shall be calculated from dimensions derived by horizontal projections of the site.

**ASSISTED LIVING FACILITY:** *See Personal Care Home*

**BASEMENT:** A story having more than 50% of its clear height below the average level of the surrounding ground. A basement shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five (5) feet or if used for dwelling purposes.

**BED AND BREAKFAST (HOMESTEAD OR INN) -** A private residence which contains eight (8) or fewer bedrooms used for providing overnight accommodations to the public, and

in which breakfast is the only meal served and is included in the charge for the room. Bed And Breakfast establishments are regulated by the Commonwealth of Pennsylvania, Department of Agriculture.

**BOARD (Zoning Hearing Board):** The duly appointed Zoning Hearing Board of the Borough of North East, Erie County, Pennsylvania.

**BOARDING, ROOMING or LODGING HOUSE:** A building where lodging is provided for compensation for five (5) or more persons.

**BODY PIERCING:** *See Skin Art*

**BUILDING:** A roofed structure which may or may not be enclosed by walls for the shelter, housing or enclosure of persons, goods, animals, or equipment.

**BUILDING, PRINCIPAL:** A building or portion thereof housing the main or primary use of the land.

**BUILDING HEIGHT:** The vertical distance from the average elevation at grade level, to the highest point of the deck of a flat roof or a mansard roof; or to the mean height between the eaves and the ridge for gable, hip and gambrel roofs.

**BUILDING or SETBACK LINE:** Imaginary line parallel to or concentric with the nearest road right-of-way line. No portion of a building foundation or wall may extend nearer the lot line than the required front yard depth.

**BUSINESS SERVICE:** Any business activity which renders service to other commercial or industrial enterprises, and realtors, insurance agents, and related activities.

**CHURCH:** A place of religious instruction or public worship.

**CLINIC:** Any establishment where human patients are examined and treated by physicians or dentists but not hospitalized overnight.

**CLUB:** An establishment operated by an organization for social, recreational, educational and fraternal purposes, but open only to members and their guests and not the general public.

**CODE:** *See Planning Code*

**COMMERCIAL/RESIDENTIAL BUILDING:** A multiple family dwelling, as defined herein, which devotes at least the ground floor frontage to commercial use, or is a commercial building with apartments.

**COMMISSION (Planning Commission or Borough Planning Commission):** The duly appointed Planning Commission of the Borough of North East, Erie County, Pennsylvania.

**COMMON OPEN SPACE:** A parcel or parcels of land or an area of water or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of the planned residential development, not including streets, off-street parking areas and areas set for public facilities.

**CONVENIENCE STORE:** A retail business with primary emphasis on quick purchases from a limited variety of consumable goods, typically gasoline, snacks, food and related sundries. These are usually located along high traffic roads and have extended business hours, with most products consumed off the premises.

**COUNTY PLANNING:** Erie County Department of Planning.

**COVERAGE:** That percentage of the lot area covered by principal and accessory use structures.

**DAY CARE FACILITY:** For the purpose of this Zoning Ordinance, Day Care Facilities must possess any required County or State permits or approvals, and are defined as follows:

- A. **FAMILY DAY CARE HOME:** Any family residence other than a child's own home, operated for profit, or not for profit, in which child day care is provided at any time to four (4), five (5) or six (6) children who are not relatives of the care giver as defined and regulated by the Commonwealth of Pennsylvania. (Note: day care for children for three (3) or fewer children is not regulated by this Zoning Ordinance)
- B. **CHILD DAY CARE CENTER** - The premises in which care is provided at any one time for seven (7) or more children unrelated to the operator as defined and regulated by the Commonwealth of Pennsylvania.
- C. **GROUP CHILD CARE HOMES:** A group Child Care Home is a facility in which seven (7) to twelve (12) children unrelated to the operator receive child care services.

**DEDICATED ROADWAY:** That portion of a road which is paved, graded or improved for travel by vehicles.

**DENSITY:** The area of a lot or group of lots computed exclusive of any portion of the right-of-way of any road, divided by the number of families housed on the lot or group of lots.

**DWELLING, SINGLE-FAMILY:** A detached building arranged or used for occupancy by one (1) family on individual lots of record. All single-family dwellings shall be constructed in accordance with the Pennsylvania Uniform Construction Code.

**DWELLING, MULTIPLE FAMILY:** A building arranged or used as a residence for two (2) or more families living independently of each other and doing their own cooking therein, including apartment houses, flats, group houses, duplexes, condominiums, townhouses, etc. All multiple family dwellings shall be constructed in accordance with the Pennsylvania Uniform Construction Code.



**DWELLING UNIT:** One (1) or more rooms for living purposes, together with separate cooking and sanitary facilities, used or intended to be used by one (1) or more persons living together and maintaining a common household and accessible from the outdoors either directly or through an entrance hall shared with other dwelling units.

**ENGINEER, MUNICIPAL:** A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the Engineer for North East Borough, Erie County, Pennsylvania.

**ESSENTIAL SERVICES:** The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication supply or disposal systems including poles, wires, mains, drains, sewers, pipes, conduit equipment and accessories in connection therewith; reasonably necessary for the furnishing of adequate services by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings.

**FAMILY:** One person or two or more persons, related by blood, foster relationship, marriage or adoption, and in addition, any domestic servants or gratuitous guests thereof; or one or more persons who need not be so related, and, in addition, domestic servants or gratuitous guests thereof, who are living together in a single, nonprofit dwelling unit and maintaining a common household with single cooking facilities. A roomer, boarder or lodger shall not be considered a member of the family.

**FLOOR AREA, HABITABLE:** The enclosed areas of a building designed and intended for all season use of human inhabitants.

**FOUNDATION:** That portion of a building that has the sole purpose of transmitting structural loads from the building into the earth and supports the superstructure.

**GARAGE, REPAIR (See Also SERVICE STATION):** Premises where motor vehicles are serviced and repaired, including engine overhaul and body work.

**GOVERNING BODY:** The duly elected Council of North East Borough, Erie County, Pennsylvania.

**GROUP CARE FACILITY:** A facility which provides services in a common household to more than two (2) individuals, not related by blood, marriage or adoption who are in need of supervision due to a physical and/or mental handicap, age, disability, violation of a penal law, and adjudication of delinquency, and/or an addiction to drugs, and/or alcohol.

**HEARING:** An administrative proceeding conducted by a Board pursuant to Part 7 of this Zoning Ordinance.

**HEAVY INDUSTRIAL:** Assembly, manufacturing, compounding, processing, packaging or treatment uses which may produce or emit discernible dust, smoke, toxic or noxious odors, glare, gases, fumes or noise levels onto neighboring properties, but which shall be in compliance with US Environmental Protection Agency and Pennsylvania Department of Environmental Protection standards and permit procedures.

**HOME OCCUPATION:** Any occupation customarily carried on entirely within a dwelling by the occupants thereof, which is clearly incidental and subordinate to the use of the dwelling for dwelling purposes and which does not change the residential character thereof or occupies no more than twenty-five percent (25%) of the floor area of the dwelling. *See Also No-Impact Home-Based Business*

**JUNKYARD:** Land or structure used for the collecting, storage, processing and sale of scrap metal, scrapped, abandoned or junked motor vehicles, machinery, equipment, waste paper, glass, rags, containers, and other discarded materials. It shall not include, however, refuse or garbage kept in a proper container for the purpose of prompt disposal.

**LIGHT INDUSTRIAL:** Assembly, manufacturing, compounding, processing, packaging, or treatment uses which do not transmit (or may not produce) discernible dust, smoke, toxic or noxious odors, glare, gases, fumes or noise levels onto neighboring properties.

**LOADING SPACE:** A portion of a lot usable for the standing, loading, or unloading of motor vehicles, and having a minimum dimension as provided Sec 506 of this Zoning Ordinance.

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

**LOT, CORNER:** A lot at the junction of and fronting on two (2) or more intersecting street rights-of-way.

**LOT, DEPTH OF:** A mean horizontal distance between the front and rear lot lines.

**LOT OF RECORD:** Any lot which individually or as a part of a subdivision has been recorded in the office of the Erie County Recorder of Deeds.

**LOT, MINIMUM AREA OF:** The area of a lot computed exclusive of any portion of the right-of-way of any public thoroughfare.

**LOT, WIDTH OF:** The mean width measure at right angles to its depth at the building line.

**MOBILE HOME:** A transportable, single-family dwelling, intended for permanent occupancy, contained in one (1) unit, or in two (2) or more units designed to be joined into one (1) integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and

assembly operations, and so constructed so that it can be used without a permanent foundation. Mobile homes shall comply with the Pennsylvania Uniform Construction Code.

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

**MOBILE HOME PARK:** A parcel of contiguous parcels of land which has been so designated and improved that it contains two (2) or more mobile home lots.

**MUNICIPALITY:** Borough of North East, Erie County, Pennsylvania.

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

- A. The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- B. The business shall employ no employees other than family members residing in the dwelling.
- C. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- D. There shall be no outside appearance of a business use, including, but not limited to, parking, signs, or lights.
- E. The business activity shall not use any equipment or process, which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- F. The business activity shall not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- G. The business activity shall be conducted only within the dwelling and may not occupy more than twenty-five percent (25%) of the habitable floor area.

**NONCONFORMING LOT:** A lot the area of dimension of which was lawful prior to the adoption or amendment of Zoning Ordinance, but which fails to conform to the requirements of the zoning district which it is located by reasons of such adoption or amendment.

**NONCONFORMING STRUCTURE:** A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in Zoning Ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such Ordinance or amendment or prior to the application of such Ordinance or amendment to its location by reasons of annexation. Such nonconforming structures included, but are not limited to, nonconforming signs.

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

**NURSERY SCHOOL:** *See DAY CARE FACILITY*

**NURSING HOME:** A facility that provides long term nursing care including assistance with daily activities and meals, and is licensed as such by the Commonwealth of Pennsylvania, Department of Health.

**PERSONAL CARE HOME/ ASSISTED LIVING FACILITY:** A premise in which food, shelter and personal assistance or supervision are provided for a period exceeding twenty-four (24) hours, for four (4) or more adults who are not relatives of the operator, who do not require the services in, or of, a licensed long-term facility, but who do require assistance or supervision in activities of daily living or instrumental activities of daily living. The facilities must be licensed by the Commonwealth of Pennsylvania, Department of Welfare.

**PERSONAL SERVICES:** Any enterprise which primarily offers personal services to the general public, such as: valet services, barber shops, beauty parlors, tutoring, shoe and clothes repair, real estate or insurance agent.

**PLANNED RESIDENTIAL DEVELOPMENT:** An area of land, controlled by a landowner to be developed as a single entity for a number of dwelling units or combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling, or use, density, or intensity, lot coverage, and required open space to the regulations established in any one district created, from time to time, under the provisions of this Zoning Ordinance. A planned residential development includes a mobile home park.

**PLANNING CODE:** The Pennsylvania Municipalities Planning Code, Act 247 of 1968, as reenacted and amended.

**PROFESSIONAL OFFICES:** The use of offices and related spaces for professional services such as are provided by licensed physicians, dentists, lawyers, architects, engineers, surveyors or accountants.

**PUBLIC GROUNDS:** Includes parks, playgrounds, trails, paths, and other recreational areas and other public areas, and sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities and publicly owned or operated scenic and historic sites.

**PUBLIC NOTICE:** Notice published once each week for two (2) successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first

publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the meeting.

**RENEWABLE ENERGY SOURCE:** Any method, process or substance whose supply is rejuvenated through natural processes and, subject to those natural processes, remains relatively constant including, but not limited to, biomass conversion, geothermal energy, solar and wind energy, and hydroelectric energy and excluding those sources of energy used in the fission and fusion processes.

**REPAIR SHOP:** An establishment open to the public where existing personal property is repaired for a charge, in which establishment also offers like items which are refurbished for sale.

**RETAIL BUSINESS ESTABLISHMENT:** Any enterprise which primarily offers products for sale to the general public.

**RETAIL WITH SECONDARY LIGHT INDUSTRIAL:** The primary sales of and minor assembly manufacturing, compounding, processing, packaging, treatment or distribution of: such products as bakery goods, candy cosmetics, beverages, pharmaceuticals, and toiletries; products developed at an electrical, plumbing heating, printing carpentry, art and craft or welding shop; laundry or dry cleaning service; or newspaper company or publishing plant.

**ROAD:** The entire dedicated right-of-way of a public or private street or highway.

**ROOMING OR LODGING HOUSE:** A dwelling unit in which, for compensation, lodging and sometimes meals are provided to individuals that are not family members.

**SIGN:** Any structure or device to attract attention by words or graphic display. The term “sign” shall not apply to a religious symbol, bearing no lettering, when applied to a place of worship.

**SKIN ART:** Skin Art is a use that involves the practice of tattooing and/or body piercing and possesses a current license, for same, from the Erie County Department of Health.

**SPECIAL EXCEPTION USE:** A use permitted in a particular Zoning District which the Zoning Hearing Board is permitted to authorize in specific instances pursuant to the provisions of this Zoning Ordinance.

**STATION, SERVICE (See Also GARAGE, REPAIR):** A retail place of business engaged primarily in the sale of motor fuels, but also in supplying goods and services generally required in the operation and maintenance of automotive vehicles and the fulfilling of motorist needs. These may include sale of petroleum products; sale and servicing of tires, batteries, automotive accessories and replacement items, washing and lubrication services, the performance of automotive maintenance and repair; and the supplying of other incidental customer services and products.

**STORY:** The portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, the space between such floor and the ceiling above it. *See Also BASEMENT*

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

**STRUCTURE:** Any manmade object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

**SWIMMING POOL:** For the purpose of this Ordinance, regulations on swimming pools shall only be applied to those that have a water depth of twenty (20) inches or more and an area of fifty (50) square feet or more.

**TATTOO PARLORS:** *See Skin Art*

**TOURIST HOMES:** *See Bed and Breakfast (Homestead or Inn).*

**TRAVEL TRAILER:** A mobile vehicle, with wheels, designed for overnight occupancy or camping purposes, capable of being towed by a passenger vehicle and having an overall length of less than twenty-five (25) feet and an overall width of less than eight (8) feet. A travel trailer shall not be used for dwelling purposes.

**TRUCK TERMINAL:** A facility designed to accommodate the service, repair and storage of trucks and other motorized equipment, and which may incidentally provide warehousing activities, and supporting office and clerical activity.

**UNIFORM CONSTRUCTION CODE (UCC):** The Pennsylvania Uniform Construction Code.

**VARIANCE:** A departure from the strict letter of the Ordinance as it applies to specific properties as authorized by the Zoning Hearing Board.

**YARD:** Any open space located on the same lot with a building, unoccupied by structures, except for accessory buildings, or such projections as are expressly permitted by this Zoning Ordinance. The minimum depth or width of a yard shall consist of the horizontal distance between the lot line or road right-of-way line and the nearest point of the foundation wall of the main building.

**YARD, FRONT:** An open space extending the full width of the lot between the building and the road right-of-way line.

**YARD, BACK:** An open space extending the full width of the lot between the building and the rear lot line.

**YARD, SIDE:** An open space extending from the front yard to the rear yard between the building and the nearest side lot line.

**ZONING CERTIFICATE:** The written authorization issued by the Zoning Officer, for the use of land or structures.

**ZONING MAP:** The map containing the Zoning Districts of the Borough of North East, Erie County, PA, together with all amendments subsequently adopted.

**ZONING OFFICER:** The Zoning Officer or his authorized representatives, appointed by North East Borough Council, Erie County, Pennsylvania, who may not hold any elective office in the Borough.

**Sec. 202 Definitions Used in Part 7**

The following words and phrases when used in Part 7 of this Zoning Ordinance shall have the meanings given to them in this subsection unless the context clearly indicates otherwise.

**BOARD:** Any body granted jurisdiction under a land use Ordinance or under this Zoning Ordinance to render final adjudications.

**DECISION:** Final adjudication of any board or other body granted jurisdiction under any land use Ordinance or this act to do, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the Court of Common Pleas of the county and judicial district wherein the municipality lies.

**DETERMINATION:** Final action by and officer, body or agency charged with the administration of any land use Ordinance or applications thereunder, except the following: (1) the Borough Council; (2) the Zoning Hearing Board; or (3) the Planning Commission, only if and to the extent the planning agency is charged with final decision on preliminary or final plans under the subdivision and land development Ordinance or planned residential development provisions. Determinations shall be appealable only to the boards designated as having jurisdiction for such appeal.

**HEARING:** An administrative proceeding conducted by a board pursuant to §909.1 of the Pennsylvania Municipalities Planning Code

**LAND USE ORDINANCE:** Any Ordinance or map adopted pursuant to the authority granted in Articles IV, V, VI, and VII of the Pennsylvania Municipalities Planning Code.

**REPORT:** Any letter, review, memorandum, compilation, or similar writing made by any body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for

inspection to the applicant and all other parties prior to any proceeding upon request, and copies thereof shall be provided at cost of reproduction.



## **PART 3**

### **Zoning Map, Districts, and Boundaries**

#### **Sec. 301 Zoning Map**

A map entitled “North East Borough Detail Zoning Districts” is hereby adopted as part of this Zoning Ordinance. The official Zoning Map shall be kept on file available for examination at the Borough Building, while a copy of that map is provided herein for reference only.

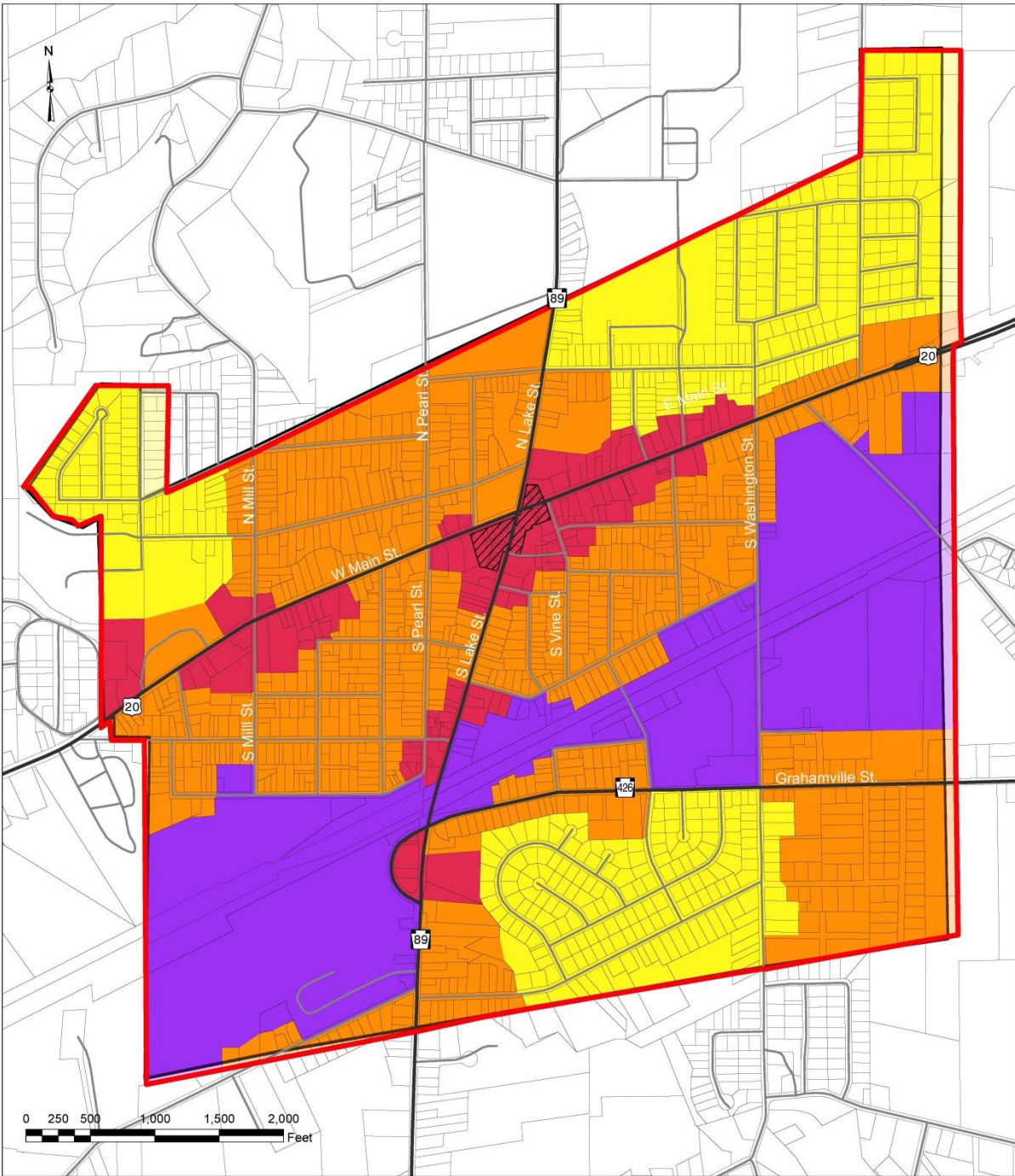
#### **Sec. 302 Zoning Districts**

The Borough is divided into the following districts as shown by the district boundaries on the Zoning Map:

- A. R-A Single Family Residential District
- B. R-B Multiple Family Residential District
- C. C-1 Commercial District
- D. M-1 Industrial District
- E. POD (Parking Overlay District) Defined areas within the historic downtown business district where compliance with the minimum parking requirements of this Zoning Ordinance are impractical or impossible to meet as currently developed.

#### **Sec. 303 District Boundaries**

The boundaries between districts are centerline of streets, alleys, railroad rights-of-way, streams or such lines extended or lines parallel thereto or concentric therewith, or property lines when proximate thereto or may be lines otherwise indicated on the Zoning Map. When the Zoning Officer cannot definitely determine the location of a district boundary, he shall deny the application and the Zoning Hearing Board, upon appeal, shall interpret the location of the district boundary.



**Borough Zoning**

- C-1
- M-1
- R-A
- R-B
- Parking Overlay

## North East Borough Detail Zoning Districts

## **PART 4**

### **District Regulations**

#### **Sec. 401 R-A Single-Family Residential District Description**

These existing areas are the last urban subdivisions of the Borough. As such, the single-family residential areas will remain essentially as they are. Land uses are reserved for medium density single-family detached dwellings and include associated public uses. The maximum density of residential dwellings in the R-A District shall be four (4) dwelling units per acre.

#### **Sec. 402 R-B Multiple Family Residential District Description**

These existing areas comprise the rehabilitation and redevelopment of the Borough's urban residential neighborhoods. Land uses include medium and higher density single-family detached dwellings, owner-occupied single-family conversions to multiple family dwellings and new higher density apartment buildings, and include associated public, institutional and recreational uses. The maximum density of residential dwellings in the R-B District shall be sixteen (16) dwelling units per acre for multiple family dwellings, and six (6) dwelling units per acre for single-family detached dwellings.

#### **Sec. 403 C-1 Commercial District Description**

These existing areas comprise the commercial business activities of the Borough. Land uses include the normal retail and food establishments, personal, professional, and entertainment services., transient commercial housing (hotel, motel, boarding house, tourist home) and higher density commercial/residential buildings where buildings may abut each other and/or front on the property lines and includes associated public, institutional and indoor recreational uses. The maximum density of residential units in commercial/residential buildings in the C-1 District shall be twenty-four (24) dwelling units per acre.

#### **Sec. 404 M-1 Industrial Description**

These existing areas comprise the industrial business activities of the Borough. Land uses include the normal heavy commercial, wholesale, warehousing, processing, and light and heavy manufacturing establishments, where buildings may abut each other and/or front on the property lines and associated public use. The maximum density of industrial establishments in the M-1 District shall be six (6) industrial units per acre.

**Sec. 405 Permitted Use and Special Exception Use Table**

P = Permitted Use, S= Special Exception, D=Term is Defined, -- = Not Permitted

USE	DISTRICT			
	R-A	R-B	C-1	M-1
Accessory Use (D)	P	P	P	P
Bed and Breakfast (Homestead or Inn) (D)	S	S	P	-
Boarding, Rooming, Lodging, or Tourist Home (D)	-	-	S	P
Building Material Supplies Facility	-	-	-	P
Car Wash (Sec.705)	-	S	P	P
Cemetery (Sec.705)	-	S	-	-
Church (D) (Sec.705)	-	P	P	-
Clinic (D)	-	-	P	-
Club, Fraternity, or Society (D)	-	S	P	-
Commercial Parking Lot or Garage	-	-	P	P
Commercial/Residential Building (D)	-	-	S	-
Communication Facility or Operation	-	-	-	P
Convenience Store (D) (Sec.705 )	-	-	P	P
Corporate or Utility Office	-	-	P	P
Day Care Facility (D) (Sec.705 )	-	S	P	-
Eating or Drinking Establishment	-	-	P	P
Essential Services (D)	P	P	P	P
Funeral Home or Mortuary (Sec.705)	-	S	P	-
Group Care Facility (D) (Sec.705 )	-	S	-	S
Heavy Industrial Establishment (D)	-	-	-	P
Highway Freight or Transportation Terminal	-	-	-	P
Home Occupation (D) (Sec.510)	P	P	P	-
Hospital (State Licensed) (Sec.705)	-	S	P	-
Hotel or Motel	-	-	P	-
Indoor Amusement Establishment	-	-	P	P

USE	DISTRICT			
	R-A	R-B	C-1	M-1
Junk Yard or Salvage Facility (D) (Sec.512)	-	-	-	S
Light Industrial Establishment (D)	-	-	-	P
Mobile Home Park	-	S	-	-
Motor Vehicle Sales & Service	-	-	P	P
Multiple Family Dwelling (D)	-	P	S	-
Natural Gas Production (Sec.508)	-	-	-	P
No Impact Home Based Business (D) (Sec.510)	P	P	-	-
Nursing Home (D) (Sec.705)	-	S	P	-
Off-street Loading & Parking (Sec.506)	P	P	P	P
Parochial School or College (Sec.705)	-	S	S	-
Personal or Business Service Office (D)	-	S	P	P
Personal Care / Assisted Living Facility (Sec.705)	-	P	-	-
Planned Residential Development (D) (Sec. 511)	-	S	-	S
Private School or Academy (Sec.705)	-	S	P	-
Professional Office (D)	-	S	P	P
Public Grounds (D)	P	P	P	P
Public Utility Building (Sec.705)	-	S	P	P
Radio or Television Studio	-	-	S	P
Renewable Energy Source (D) (Sec.705)	S	S	S	S
Repair Shop (D)	-	-	P	P
Research Testing or Design Laboratory	-	-	-	P
Retail Business Establishment (D)	-	-	P	P
Retail with Secondary Light Industrial (D)	-	-	S	P
Service Station or Repair Garage (D)	-	-	P	P
Sign (D) (Sec.509)	P	P	P	P
Single Family Detached Dwelling (D)	P	P	-	-
Temporary Structure (D) (Sec.504)	S	S	S	S
Wall or Fence (D) (Sec.505)	P	P	P	P
Wholesale, Warehouse, or Storage Facility	-	-	-	P

Sec. 406 Lot & Yard Requirements Table

Zoning District /Use	Minimum Area (Sq. Ft.) <sup>(3)</sup>	Minimum Lot Width (Feet) <sup>(2,2)</sup>	Minimum Front Yard (Feet) <sup>(2,2)</sup>	Minimum Side Yards (Feet) <sup>(3,4,5,6)</sup>		Minimum Rear Yard (Feet) <sup>(3,5,6)</sup>	Maximum Building Height (Feet) <sup>(3)</sup>	Maximum Lot Coverage/Density (%/Units per Acre) <sup>(3)</sup>
				One Side	Total Both Sides			
<b>R-A Residential</b>								
All Uses	10,000	80	30	10	24	40	35	30 <sup>5</sup> /4
Corner Lots	12,000	80	30	10	24	40	35	30 <sup>5</sup> /4
<b>R-B Residential</b>								
Single Family Detached	7,500	60	30	10	24	40	35	30 <sup>5</sup> /6
Corner Lots	8,000	60		10	24	40	35	30 <sup>5</sup> /6
Multiple Family	8,000 + 2,000 <sup>6</sup> fam.	70	30	15	30	40	50	50 <sup>5</sup> /16
All Other Uses	10,000	70	30	15	30	40	35	30%
<b>C-1 Commercial</b>								
Commercial Uses	4,000	20	25	-	-	20	50	50 <sup>5</sup> /10
Commercial/Residential	8,000 + 1,500 <sup>6</sup> fam.	30	25	15	30	20	50	50 <sup>5</sup> /24
<b>M-1 Industrial</b>								
All Uses	7,500	50	50	-	-	20	50	50 <sup>5</sup> /6

## Sec. 406 Lot and Yard Requirements

1. All uses in all districts shall connect to public water, storm water, and sanitary sewer systems. If such connection is impractical as determined by the Zoning Hearing Board, minimum lot sizes shall be doubled, minimum lot width and minimum side yards shall be increased by fifty percent (50%) and maximum lot coverage shall be reduced by fifty percent (50%). All uses in all districts shall comply with the North East Borough Floodplain Management Ordinance and the North East Borough Storm Water Management Ordinance.
2. Lot width, to be measured at building line, shall not be less than thirty (30) feet at front property line.
3. In existing built-up areas, the dimension may be equal to the average figure established by existing building within one-hundred and fifty (150) feet of proposed building on same side of street, which shall be determined by the Zoning Officer.
4. For nonresidential uses abutting a residential district, see Sec. 503 (4) and (5).
5. Applies to principal buildings. Accessory buildings (120sq.ft. maximum) and uses (that are not exempt in #6, below) shall be located no closer than five (5) feet to the side and rear property lines.
6. The following accessory uses are exempt from yard requirements: (omitting fences) sidewalks, access drives and patios flush with normal grade level, except that no more than fifty percent (50%) of the front yard may be used for these uses.
7. Residential handicap ramps shall have a minimum setback distance of five (5) feet from all property lines and must be constructed in accordance with UCC and ADA requirements.
8. Pools, Water Recreation and Storage Areas: Any facility for water recreation such as private swimming pools, swimming clubs, or any other water storage facility shall comply with the following regulations. Any pool that has a water depth of twenty (20) inches or more and an area of over fifty (50) square feet shall be required to obtain a permit, even if it is temporary in nature.
9. Above -ground swimming pools, spas, and hot tubs shall be located no less than ten (10) feet from any side yard property line and twenty-five (25) feet from the rear yard property line, be in the side or rear yard area and shall comply with UCC regulations. In-ground pools, spas, and hot tubs must meet the setback requirements of the district for structures and are allowed in the side and rear yards only and shall be surrounded by a fence as stated in Sec. 505 that follows the recommendations of the Consumer Products Safety Commission.

## PART 5

### Supplementary Regulations

#### Sec. 501 Nonconforming Uses and Structures

The following provisions shall apply to all nonconforming uses and structures:

- A. Any nonconforming use may be continued but may not be extended or expanded or changed unless to a conforming use, except as permitted by the Zoning Hearing Board in accordance with the provisions of this Zoning Ordinance. Any nonconforming use which has been discontinued for twelve (12) months shall not be permitted to be reestablished.
- B. Any nonconforming structure damaged by fire, flood, explosion or other casualty may be reconstructed and used as before if such reconstruction is performed within twelve (12) months of such casualty, and if the restored structure covers no greater area and contains no greater cubic content than before such casualty.
- C. The nonconforming use of a building may be extended throughout those parts hereof which were manifestly arranged or designed for such use at the time of adoption of this Zoning Ordinance . A nonconforming building or structure may, with the approval of the Zoning Hearing Board, be extended or enlarged but must meet minimum yard requirements of the district in which the structure is located and must meet the off-street parking and loading requirements of this Zoning Ordinance .
- D. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification.
- E. A structure that has been razed shall not be reconstructed for a use that does not conform to the provisions of this Zoning Ordinance.
- F. Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition.
- G. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.
- H. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, this Part shall also apply to any uses which thereby become nonconforming.
- I. Any nonconforming use discontinued for a six (6) month period or longer shall be considered changed to a conforming use.



- J. When a property owner requests a permit for a nonconforming lot or structure, and the requested activity will diminish the nonconformity of said lot or structure, the permit shall not be referred to the Zoning Hearing Board but shall be approved by the Zoning Officer. However, if the Zoning Officer cannot make a clear determination on this matter, it will be referred to the Zoning Hearing Board.

**Sec. 502 Existing Lot of Record**

Any lot of record existing at the effective date of this Zoning Ordinance and held in separate ownership different from the ownership of adjoining lots may be used for the erection of a structure conforming to the use regulations of the district in which it is located, even though its dimensions are less than the minimum requirements of this Zoning Ordinance, except as set forth hereafter. Where two (2) or more adjacent lots of record with less than the required area and width are held by one (1) owner on or before the date of enactment of this Zoning Ordinance, the request for a permit shall be referred to the Zoning Hearing Board which may require relating to fewer lots which would comply with the minimum requirements of this Zoning Ordinance.

**Sec. 503 Application of Yard and Height Regulations**

- 1. Lots which abut more than one (1) street shall provide the required front yards along every street.
- 2. All accessory structures, whether attached to the principal structure or not, and whether open or enclosed, including steps, stoops, ramps, decks, porches, carports, balconies or platforms above normal grade level, shall not project into any minimum front, side or rear yard, except as noted in Sec. 406 for accessory buildings and uses and in Sec. 504.
- 3. When the following conditions are met, height limits may be increased:
  - A. Building height in excess of the height above average ground level allowed in any district may be permitted provided all minimum front, side, and rear yard depths are increased one (1) foot for each additional foot of height.
  - B. The following structures are exempt from height regulations: television and radio towers, church spirals, belfries, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smoke stacks, conveyors, and flagpoles.
- 4. Visibility at Intersections. On a corner lot in any residential district, no structure, fence, wall, hedge or other planting shall be erected or allowed to grow, be placed, or maintained at a height of more than three (3) feet six (6) inches above the curb line within a triangle formed by the street lines of the right-of-way joining said street lines at points twenty (20) feet from their point of intersection.

5. Nonresidential buildings hereafter constructed or uses hereafter established shall not be located or conducted closer to any lot line in any of the residential districts than the distance specified in the following schedule:

USE	MINIMUM SIDE or REAR YARD
Off street parking spaces and access drives for nonresidential uses	20 ft.
All other nonresidential use or structures	40 ft.

**Sec. 504 Temporary Structures**

1. Temporary structures used in conjunction with construction work shall be permitted only during the period that the construction work is in progress. Permits for temporary structures shall be issued for a six (6) month period and may include mobile homes and travel trailers.
2. Mobile homes being used as a dwelling shall have appropriate foundation and skirting which shall comply with the Pennsylvania Uniform Construction Code.
3. Temporary Storage Structures such as “PODs” and large bags used to contain trash or construction debris will be permitted for period of thirty (30) days, but will require a Zoning Permit for same. A time extension of an additional thirty (30) days may be granted by the Zoning Officer, but any extensions beyond the second thirty (30) days must be approved by the Zoning Hearing Board.

**Sec. 505 Walls, Fences, and Screening**

A fence or freestanding wall shall be permitted within the limits of any yard.

- A. The height of any fence or wall shall be limited to six (6) feet in the R-A and R-B Districts, eight (8) feet in the C-1 District and ten (10) feet in the M-1 District. Any fence or wall erected within twenty (20) feet of any road right-of-way shall not be greater than three (3) feet six (6) inches.
- B. In addition to the above requirements, Sec. 503 (4) of this Part shall be complied with.
- C. Any fence shall be located a minimum of six (6) inches within the property line unless written consent from the adjoining property owner is submitted with the required Application for Zoning Permit.
- D. A fence erected around tennis or basketball courts, as a backstop and around similar recreational facilities may be permitted in all districts as a special exception use, if approved by the Zoning Hearing Board.

- E. All private swimming pools shall be completely surrounded by a fence or wall not less than four (4) feet in height, which shall be so constructed as not to have openings, holes, or gaps larger than four (4) inches in vertical or horizontal direction, except for doors and gates. An above ground pool with a wall greater than four (4) feet in height does not require a fence or wall if the pool is equipped with a removable and/or locking ladder system. All private swimming pools are required to comply with the Pennsylvania Uniform Construction Code.

**Sec. 506 Off-street Loading and Parking**

Off-street loading and parking spaces shall be provided in accordance with the provisions of this Zoning Ordinance except when specifically exempted by the Parking Overlay District. Uses that now or later occupy buildings in the Parking Overlay District shall not have to comply with off-street loading and parking requirements.

- A. Off-Street Loading. Every building which requires the receipt or distribution by vehicles of material or merchandise shall provide off-street loading berths in accordance with the following table.

<b>OFF-STREET LOADING SPACE REQUIREMENTS</b>		
<b>Uses</b>	<b>Square Feet of Floor Area</b>	<b>Required Off-street Loading Berths</b>
Commercial, Wholesale, Manufacturing & Storage	0-25,000	1
	25,001-40,000	2
	40,001-60,000	3
	60,001-100,000	4
	For each additional 50,000 Or major fraction thereof	1 additional
Hotels & Offices	10,000 or more	1
Schools & Institutions	15,000 or more	1
Undertakers & Funeral Parlors	5,000	1
	For each additional 5,000 or major fraction thereof	1 additional

Each loading space shall not be less than twelve (12) feet in width, fifty-five (55) feet in length and fourteen (14) feet in height. The loading area and access drives shall be paved.

**B. Off-Street Parking.**

1. **Size and Access.** Each off-street parking space shall have an area of not less than one-hundred and eighty (180) square feet (Nine (9) feet in width and twenty (20) feet in length) exclusive of access drives or aisles and be in usable shape and condition. Except in the case of dwellings, no parking area shall contain less than three (3) spaces. Where a lot does not abut on a public or private alley or easement of access, there shall be provided an access drive leading to the parking or storage areas or loading spaces. Such access drive shall not be less than ten (10) feet wide. Access to off-street parking areas shall be limited to several well-defined locations and in no case shall there be unrestricted access along the length of a street or alley. The parking area of access drives shall be paved.
2. **Number of Parking Spaces Required.** The number of off-street parking spaces required is set forth below. Where the use of the premises is not specifically mentioned, requirements for similar uses shall apply.

**C. Off-Street Parking Exception.** That area commonly referred to as the downtown business district where no possible parking may be added or developed, and where ample parking is available on the street or in off street lots, shall be exempt from the minimum parking requirements established herein. This area is designated as the Downtown Parking Overlay District as depicted on the North East Borough Detail Zoning Districts Map.

**D. Stacking Requirements for Drive-In, Drive-Through Facilities:** This section provides vehicle standards for drive-in, drive-up and drive-through facilities. These may include such uses as banks, fast-food restaurants and car washes. The purpose of these standards is to provide reasonable stacking capacity for various uses so vehicles will not use public streets while queing in line for service. All references to stacking capacity relates to typical automobiles. A length of twenty (20) feet per auto will be used to accommodate one (1) vehicle and minimal head space. Minimal stacking lane width is nine (9) feet. Note: Stacking capacity is to be measured from the lot line, but, not including the service window or order window (if present) and is not to include any area of the public right-of-way.

Use	Stacking Capacity Per Drive-In Window
Bank	5 Per drive-in window 3 per ATM
Car Wash	4 per wash bay
Restaurant	8 per drive-in window *
<i>*To be measured to the order box, if separate from service windows.</i>	

## OFF-STREET PARKING SPACE REQUIREMENTS

Uses	Required Parking Space
Automobile Laundry (Car Wash)	5 for each wash line
Automobile Sales and Service Garages	1 for each 400 square feet of floor area
Banks or Professional Offices	1 for each 250 square feet of floor area
Beauty Parlors and Barber Shops	1.5 for each chair
Bowling Alley	7.5 for each alley
Churches and Schools	1 for each 3.5 seats in an auditorium or 1 for each 17 Classroom seats, whichever is greater
Community Buildings and Social Halls	1 for each 100 square feet of floor area
Driving Ranges and Miniature Golf	1 for each tee
Dwellings	1 for each family or dwelling unit including space in garage
Food Supermarkets	1 for each 100 square feet of floor area
Funeral Homes and Mortuaries	5 for each parlor
Furniture or Appliance Stores	1 for each 500 square feet of floor area
Home Occupations	1 for each 200 square feet of floor area in addition to dwelling unit requirement
Hospitals, Nursing or Convalescent Homes	1 for each 2 beds
Hotels and Motels	1 for each living or sleeping unit
Manufacturing Plants, Research or Testing Facilities, Bottling Plants	1 for each 500 square feet of floor area
Medical or Dental Offices	5 for each doctor or dentist
Restaurants, Taverns, and Night Clubs	1 for each 2.5 seats
Retail Stores and Shops	1 for each 250 square feet of floor area
Rooming Houses and Dormitories	1 for each 2 bedrooms
Service Stations	3 for each service bay
Sports Arenas, Auditoriums, Theaters, Assembly Halls	1 for each 3.5 seats
Wholesale Establishments or Warehouses	1 for each 2 employees on maximum shift. The total parking area shall not be less than 25% of the building floor area.

For other uses, guidelines from the Institute of Transportation Engineers may be used or the written recommendations of a professional traffic engineer. *Note: Stacking capacity is to be measured from the lot line to, but, not including the service window or order window (if present) and is not to include any area of the public right-of-way.*

- E. Off-Street Parking Exception. That area commonly referred to as the downtown business district where no possible parking may be added or developed, and where ample parking is available on the street or in off street lots, shall be exempt from the minimum parking requirements established herein. This area is designated as the Downtown Parking Overlay District as depicted on the North East Borough Zoning Map.
- F. Location and Use of Parking Areas. Required parking spaces shall be located on the same lot with the principal use. The Zoning Hearing Board may permit parking spaces to be located not more than four-hundred (400) feet distant from the lot of the principal use if located in the same zoning district as the principal use and the Board finds that it is impractical to provided parking on the same lot with the principal use. In all residential districts, parking areas shall be located beyond the front setback line.
- G. Screening and Landscaping. Nonresidential off-street parking areas, and off-street loading areas, shall be effectively screened on each side which adjoins or faces any residential district.
- H. Minimum Distances and Setbacks. Nonresidential off-street loading or parking areas and access drives shall be no closer than twenty (20) feet to each side which adjoins or faces any residential district, and in accordance with Sec. 503 (D and E) of this Zoning Ordinance.
- I. Surfacing. All parking and loading areas and access drives shall have a paved surface of asphalt or concrete, graded and drained to properly dispose of all surface water and designed to provide for orderly and safe loading and parking.
- J. Lighting. Any lighting used to illuminate off-street parking or loading areas shall be arranged so as to reflect the light away from each side which adjoins or faces any residential district.
- K. Location and Use of Access Drives. In all districts, there shall be no more than two (2) access drives per street or alley per lot, which shall be no closer than fifteen (15) feet apart. The width of each access drive shall be no more than thirty (30) feet in business districts; and in residential districts no more than twenty (20) feet for one (1) access drive or no more than ten (10) feet for two (2) access drives per residential lot. In all residential districts with two (2) access drives, only the primary access drive may be used for parking.

L. All ingress and egress for all properties along State highways shall be regulated by and receive proper permits from the Pennsylvania Department of Transportation.

M. Shared Driveways: It is the intent of this Zoning Ordinance that each lot shall have its own driveway and shared driveways will not be permitted.

**Sec. 507 Renewable Energy Source**

This use may be permitted in all districts as a special exception use, if approved by the Zoning Hearing Board. In the R-A and R-B Districts, unless a proposed renewable energy source is compatible with the residential character of these neighborhoods, the Zoning Hearing Board may deny this special exception use. Solar panels, installed upon the roof, are a permitted use, and do not require Zoning Hearing Board review.

**Sec. 508 Natural Gas Production**

Any new natural gas wells shall show full compliance with the regulations of the Pennsylvania Department of Environment Protection by providing the needed approvals of that agency.

Production operations for the extraction of natural gas or oil from the ground are permitted in the M-1 District only. All operations shall comply with the following minimum requirements:

A Shallow Well (less than 1,500 foot depth) minimum setbacks:

<b>From</b>	<b>Distance</b>
Right-of-Way	30 feet
Other Property Lines	20 feet
Main Structures	15 feet
Accessory Buildings	5 feet
Assembly Uses:	
Entrance/ Exits	35 feet
Structure	25 feet

B. Deep Well (1,500 foot or more depth) minimum setbacks:

From	Distance
Right-of-Way	50 feet
Other Property Lines	45 feet
Main Structures	40 feet
Accessory Buildings	25 feet
Assembly Uses:	
Entrance/ Exits	150 feet
Structure	100 feet

C. The operator shall file with the Zoning Officer a plan showing the location of adjacent properties, roads, and natural features.

D. The operator shall submit, to the Zoning Officer, an engineer certified plan for the restoration of the area which shall include anticipated future use of the restored land, the proposed final topography indicated by contour lines of no greater interval than five (5) feet, steps which will be taken to conserve the topsoil, and the location and size of permanent above ground structures or other improvements contemplated.

**Sec. 509 Signs**

No sign shall be permitted except as herein provided:

A. In any District all signs except those maintained pursuant to and in the discharge of any law, Ordinance, governmental regulation or function shall comply with the following general requirements:

1. Signs shall not move or be illuminated in any manner which will cause undue distraction, confusion, or hazard to vehicular traffic.
  - a. Signs shall not be animated in any way; including any signs which move, revolve or rotate by means of normal wind currents.
  - b. Signs, which incorporate in any manner moving, scintillating, or revolving lights, or signs with flashing lights, or signs, which use any other type of electronic device which changes the messages on the signs are subject to the



following restriction, with the exception of traffic warning devices and signs giving public service information, such as, but not limited to, time, dates, temperature, weather, or similar information: All messages shall remain static for a period of at least eight (8) minutes.

2. Signs shall be located at least five (5) feet back from all side and rear property lines in all residential districts. Signs in the front yards in all residential districts shall be located at least two (2) feet back from the front property lines.
3. Signs shall not extend above the roof line.

B. No sign shall be permitted in residential districts except as herein provided:

1. One (1) sign not exceeding two (2) square feet in area will be permitted which announces the name and professional activity of the occupant of the premises on which said sign is located.
2. One (1) bulletin board not exceeding twenty-five (25) square feet in area will be permitted in connection with any church, school or similar public structure.
3. Temporary signs: Temporary signs, such as for real estate, political signs, or garage sales shall be allowed. A temporary sign shall be removed promptly when it has fulfilled its function and may be up to six (6) square feet in size. All signs shall be placed behind the sidewalk in the lawn areas.
4. One (1) development sign not exceeding thirty (30) square feet and advertising a building or improvement or future use of a building being constructed or altered upon the premises may be erected thirty (30) days prior to start of construction, during active construction, and for not more than thirty (30) days after completion.

C. In commercial and industrial districts, no sign shall be permitted except as herein provided:

1. One (1) sign in connection with any legal commercial or industrial use or structure will be permitted on the premises of the business, providing that if said commercial use or structure faces more than one (1) road, one (1) sign shall be allowed on each street frontage.
2. Signs directly relating to a use conducted on the premises providing the total area in square feet of all such signs or marquees and canopies, shall not exceed the number of lineal feet of street frontage and no individual projecting sign shall exceed thirty (30) square feet in area and shall be limited to two (2). No sign shall exceed the height of a related building or twenty-eight (28) feet, whichever is greater.

3. Signs directing and guiding traffic and parking on private property, and bearing no advertising matter.
  4. Signs may be placed along the property lines only if the bottom of said signs is at least ten (10) feet above the ground and the support structure for said signs is located at least two (2) feet back from all property lines.
- D. No sign shall be permitted in any street right-of-way other than for guiding traffic or directional.

### **Sec. 510 Home Occupations**

A home occupation shall be clearly incidental and secondary to the use of the dwelling unit for residential purposes. The following additional conditions shall be observed:

- A. The occupation is customarily carried on in a dwelling unit.
- B. The occupation is carried on by the owner or a member of his/her family residing in the dwelling unit, with not more than one (1) employee outside the family.
- C. The occupation is carried on wholly within the principal structure.
- D. There shall be no exterior display, exterior sign other than permitted by Sec. 509, no exterior storage of materials, and no exterior indication of the home occupation or variation from the residential character of the principal structure.
- E. No business vehicle shall be parked in any residential district, except in an enclosed structure.
- F. No offensive odor, no vibration, noise, smoke, dust, heat, or glare shall be produced.
- G. The occupation shall occupy no more than twenty-five (25%) percent of the principal structure.
- H. Home occupations may include arts and crafts, traditional home related enterprises, personal services, and professional services.

### **Sec. 511 Planned Residential Development**

The Zoning Hearing Board may permit departures from the zoning regulations for any planned residential development in the manner herein provided for special exception uses, if the planned project meets the following requirements:

- A. The area of land to be developed shall only be in the R-B or C-1 Districts, and the Zoning Hearing Board may place requirements in addition to the following:

1. Adjacent properties will not be adversely affected.
2. The average density of dwelling units is not greater than the density requirements in the district in which the plan is located. The use of the land shall not differ substantially from the uses permitted in the district, except that limited commercial facilities intended to serve only the planned project area fully integrated into the design of the project may be allowed.
3. The plan shall be consistent with the intent and purpose of this Zoning Ordinance.
4. A complete plan for the area is submitted for review for recommendations by the planning commission and Borough Council and to determine if the proposed project is consistent with the comprehensive plan.

**Sec. 512 Junkyards or Salvage Facilities (and similar storage areas)**

These uses may be permitted only in the M-1 District as a special exception use, if approved by the Zoning Hearing Board

- A. All junkyards shall be completely screened from roads or developed areas with a solid fence or wall ten (10) feet or more in height, maintained in good condition, and painted (except for masonry construction).
- B. No junkyards established after the effective date of this Zoning Ordinance shall be located closer than five-hundred (500) feet to existing State and Federal roads, or closer than one-hundred (100) feet to a municipal street or road.
- C. Access to and egress from junkyards established after the effective date of this Zoning Ordinance shall not be from State and Federal roads.

**Sec. 513 Exterior Lighting:**

All exterior lighting in nonresidential uses and structures shall meet the following standards:

- A. All lighting fixtures shall be full “cut off.”
- B. No lighting fixture shall be mounted higher than twenty (20) feet above grade.
- C. All lighting shall be aimed away from residential uses or districts.
- D. All lighting shall be turned off or put at reduced levels [thirty percent (30%) of fixtures lit] after the business closes for the night. All night operations shall reduce lighting by one-half (½) after midnight.

## **Sec. 514 Chicken Coop Regulations**

The keeping of chickens in residential districts shall be permitted with the following regulations:

- A. A chicken coop and enclosure (pen) shall be required on all residential properties where chickens are permitted to be kept.
- B. Chickens are allowed only in the chicken coop and the outdoor enclosure.
- C. Roosters and free-range fowl are not permitted.
- D. The coop shall accommodate not more than six (6) chickens; it must be located in the rear yard and shall not exceed a maximum size of eight (8) feet by six (6) feet and a maximum height of six (6) feet.
- E. The outdoor enclosure shall be a minimum of eight (8) feet by six (6) feet.
- F. A metal sealable food container is required.
- G. Waste materials must be disposed of in a manner that will not cause odor, flies or attract vermin.
- H. The coop, enclosure and storage/composting of waste must be set back a minimum of thirty-five (35) feet from all property lines and shall not be visible from the street.
- I. Overall lot size shall be at least ten-thousand (10,000) square feet.

## **Sec. 515 Outdoor Furnaces and/or Boilers**

Outdoor Wood Burning Stoves/ Boilers or Furnaces: These uses must have an EPA Phase II Tag and burn only wood or wood pellets. A set-back of at least fifteen (15) feet from the nearest property line is required.

## **PART 6**

### **Administration and Enforcement**

#### **Sec. 601 Zoning Officer**

The Borough Council shall appoint the Zoning Officer who shall administer and enforce the provisions of this Zoning Ordinance.

#### **Sec. 602 Duties of the Zoning Officer**

The Zoning Officer shall enforce all the provisions of this Zoning Ordinance and shall have such duties and powers as are conferred on him, or her, by this Zoning Ordinance and are reasonably implied for the purpose.

- A. Applications, Zoning Certificates, Building Permits, and Inspection. He/she shall receive applications for zoning certificates and building permits and make all inspection in accordance with the provisions of this Zoning Ordinance.
- B. Inspection. The Zoning Officer may examine or cause to be examined all structures and/or land for which an application has been filed for zoning certificates, and he/she may conduct such inspections from time to time during and at completion of the work for which a zoning certificate has been issued.
- C. Nonconforming Uses. The Zoning Officer shall keep an up-to-date list of all nonconforming uses.

#### **Sec. 603 Zoning Certificate**

- A. Requirements. Until the Zoning Officer has issued a zoning certificates applicable thereto, no person shall:
  - 1. Occupy or use any vacant land.
  - 2. Occupy or use any structures hereafter constructed, reconstructed, moved, altered, or enlarged.
  - 3. Change the use of a structure of land to a different use.
  - 4. Change a nonconforming use.
- B. Expiration of Zoning Certificate. The zoning certificate shall expire six (6) months from the date of its issuance.

- C. Application and Fees. Each applicant for a zoning certificate shall present, with the application, a plot plan showing clearly and completely the location, dimensions, and nature of any structures involved and such other information as the Zoning Officer may require as to compliance with this Zoning Ordinance, together with an application fee in accordance with a schedule affixed by resolution of Borough Council.

**Sec. 604 Enforcement Notice**

- A. If it appears to the Borough that a violation of this Zoning Ordinance has occurred, the Borough shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.
- B. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel and to any other person requested in writing by the owner of record.
- C. An enforcement notice shall state at least the following:
  - 1. The name of the owner of record and any other person against whom the Borough intends to take action.
  - 2. The location of the property in violation.
  - 3. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Zoning Ordinance.
  - 4. The date before which the steps for compliance must be commenced, and the date before which the steps must be completed.
  - 5. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a period of ten (10) days.
  - 6. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with the possible sanctions clearly described.

**Sec. 605 Enforcement Remedies**

- A. Any person, partnership, or corporation who or which has violated or permitted the violation of the provision of this Zoning Ordinance or prior enabling laws shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Borough, pay judgment of not more than five-hundred (\$500) dollars plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of determination of a violation by the District Justice. If the defendant neither pays nor

timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership, or corporation violating this Zoning Ordinance to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs, and reasonable attorney fees collected for the violation of this Zoning Ordinance shall be paid over to the Borough.

- B. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
- C. Nothing herein shall be interpreted to limit the authority of the Borough to revoke an approval previously granted for a violation of this Zoning Ordinance, which right is expressly reserved.
- D. Nothing contained in this section shall prohibit or prevent the Zoning Officer, or anyone else, from seeking other legal remedies for civil zoning infractions such as injunctions or criminal prosecutions.

## **PART 7**

### **Zoning Hearing Board**

#### **Sec. 701 General**

- A. In accordance with Article IX of the Pennsylvania Planning Code, a Zoning Hearing Board shall be appointed and organized, and shall adopt rules to cover its procedures. The Board shall hold meetings, keep minutes, and pursuant to notice, conduct hearings, compel the attendance of witnesses, take testimony under oath and render decisions in writing within forty-five (45) days after hearing or continued hearing, all as required by law. For the filing of an appeal or proceeding with the Board, a fee shall be charged in accordance with a schedule annually fixed by the Borough Council.
- B. Except as provided in §909.1 of the Pennsylvania Planning Code, the Board shall have no power to pass upon the validity of any provision of an Ordinance or map adopted by the Borough.

#### **Sec. 702 Appeals**

- A. Any person or Borough Official aggrieved or affected by any provision of this Zoning Ordinance or by any decision of the Zoning Officer may appeal to the Zoning Hearing Board within a reasonable time, as provided by rules of the Board, by filing a notice of appeal specifying the grounds thereof. The Board shall have the power to hear and decide appeals from any order, requirement, decision, grant, or refusal made by the Zoning Officer in the administration of this Zoning Ordinance. All appeals and applications made to the Board shall be in writing on forms prescribed by the Board.
- B. Every appeal or application shall refer to the specific provision of the Zoning Ordinance involved and shall set for the exactly the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that variance should be grants, as the case may be. At least ten (10) days prior to the date of the hearing on an application or appeal, the Board shall transmit to the Planning Commission a copy of said application or appeal in order that the Planning Commission may have an opportunity of submitting a report or opinion to the Board.
- C. The hearing shall be conducted in accordance with §908 of the Pennsylvania Planning Code. The Zoning Hearing Board may appoint any member as a Hearing Officer. The decision, or where no decision is called for, the findings shall be made by the Board, but the parties may waive decision or findings by the Zoning Hearing Board and accept the decision of the Hearing Officer as final.



**Sec. 703 Variances**

The Zoning Hearing Board, upon appeal, shall have the power to authorize variances from the provisions of this Zoning Ordinance provided the following findings are made relevant in a given case:

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

**Sec. 704 Special Exception Uses**

- A. The Zoning Hearing Board shall have the power to decide applications for special exception uses as specified in this Zoning Ordinance, in harmony with its general purpose and intent and in accordance with the standards set forth. The Board shall approve a special exception use only if it meets the following standards and criteria:
  - 1. The use is compatible with adjacent uses and structures
  - 2. The use is suited to the topography and other characteristics of the site.
  - 3. The use complies with all off-street parking and other provisions of this Zoning Ordinance.
- B. In interpreting and applying the provisions of this Zoning Ordinance, they shall be held to be the minimum requirements for the health, safety, and general welfare of the Borough.

## **Sec. 705 Criteria for Special Exception Uses**

This section sets forth the criteria for special exceptions as permitted by this Zoning Ordinance.

A. **Cemeteries** - New Cemeteries or an expansion of one (1) acre or more of an existing Cemetery shall adhere to the following:

1. The purpose of cemeteries is to provide a proper burial ground for persons. All uses and activities must be clearly and customarily incidental to this use.
2. A site plan that demonstrates the design and layout of the proposed cemetery or cemetery expansion and specifically illustrating: the proposed drainage plan, the internal circulation plan and the location of accessory building(s).
3. Connections to existing paved City streets will be no closer than fifty (50) feet to a street intersection, fifteen (15) feet to a fire hydrant, thirty (30) feet to a driveway on the same side of the street and shall avoid streets or driveways opposite the proposed means of ingress and egress.
4. Compliance: Shall demonstrate compliance with applicable State laws.
5. Accessory Uses: All accessory uses must be clearly incidental and subordinate to the function of the cemetery.
6. All new Cemeteries shall have a size of at least two (2) acres.

### **B. Renewable Energy**

1. Wind Energy Systems: In all residential districts and the C-1 Commercial District Small Wind Energy Systems (rated at 10kW or less) shall be allowed consistent with the criteria set forth in this Zoning Ordinance and in compliance with the standards of the American Wind Energy Association.
  - a. A set back of at least ten (10) feet shall be required from any property line.
  - b. Any towers shall be erected in full compliance with the Building Code.
  - c. Sound levels at the property line shall not exceed sixty (60) decibels as measured at the property line and as set forth by the wind system specifications.
  - d. Shall be in compliance with the height regulations of this Zoning Ordinance.
2. Solar Energy Systems: Two types of solar energy systems shall be allowed, those which generate heat (thermal) and those which generate electricity. Both types

may be installed on roof tops, but shall not extend beyond the existing eaves, except as needed to extend piping or electrical lines to the main part of the structure. Such units are permitted they do not require approval of the Zoning Hearing Board. Any such units installed on outbuildings or the surface of the lot shall observe all setback requirements.

**C. Funeral Homes** - Funeral homes shall meet the following criteria:

1. A lot size of at least ten thousand (10,000) square feet shall be required.
2. At least twenty (20), paved, on-lot parking spaces shall be provided with an additional five (5) spaces for each additional viewing parlor after the first two (2).
3. The driveway and parking system shall be arranged so the hearse and funeral cortege formation will be completed on the lot and not on a public street.

**D. Public Utility Substations/Facilities** - Such uses are permitted, with condition, to allow public utilities to adequately service the Borough. They shall include small structures and aboveground facilities, such as vent pipes. Structures over five-hundred (500) square feet in size shall be located in the M-1 District.

1. Such uses shall be landscaped to present a minimum intrusion upon the neighborhood.
2. Must be enclosed by a security fence of no more than eight (8) feet, notwithstanding any other section of this Zoning Ordinance.
3. No outdoor storage shall be permitted of equipment or vehicles.
4. Such uses shall be exempt from lot and yard requirements and land development requirements.

**E. Schools, Hospitals, Churches, and Nursing Homes** - Shall provide all parking and loading/unloading requirements as required by this Zoning Ordinance.

1. Shall be located on a public street with a minimum twenty (20) foot paved dedicated roadway.
2. All parking and recreation/play areas, which abut residential uses, shall be screened.
3. Any outdoor lighting shall use fully shielded fixtures.
4. All necessary licenses or permits issued by county, state, or federal agencies shall be presented and these required licenses, certificates, or permits shall be a condition for final approval.

F. **Personal Care Boarding Homes for Adults and Adult Day Care** -The purpose of such homes is to provide residences for individuals in a home-like setting. Consequently, it is essential to maintain an exterior appearance that is in harmony with surrounding residences. In addition, such uses shall meet the following conditions:

1. Signs or exterior display indicating the name of the home or its use shall not exceed that allowed by this Zoning Ordinance.
2. At least one (1) additional on-lot parking space shall be provided for each two (2) guests for facilities offering overnight or long-term accommodations.
3. The applicant shall identify the type of home, and present any required county and/or state certifications or licenses.

G. **Day Care Facilities, All Types** - The purpose of this section is to set forth standards for the three types of day care covered by this Zoning Ordinance (see Definition section also).

1. Family Day Care Homes

- a. Such operations must obtain any permit/certificates required by the Commonwealth.
- b. Hours of operation shall not begin before 6:00 a.m. nor extend beyond 8:00 p.m. (prevailing time).

2. Group Day Care Homes

- a. Such operations must obtain any permits/certificates as required by the Pennsylvania Department of Public Welfare.
- b. Hours of operation shall not begin before 6:00 a.m. nor extend beyond 8:00 p.m. (prevailing time).
- c. Outdoor play areas shall be effectively screened from nearby residential uses through fencing or screened planting.
- d. At least one (1) additional parking place shall be required.
- e. The operator shall demonstrate how children shall be dropped off and picked up considering their safety and the safety of other pedestrian and vehicular traffic in the area.

### 3. Child Day Care Center

- a. Any outdoor play area shall be effectively screened from abutting properties.
- b. For all new construction, and where feasible for existing structures, circular driveways shall be provided to deliver and pick up children off public streets. These facilities are intended for the safety of the children and the protection of the neighborhood. In any event, the developer shall demonstrate how pick-up and delivery shall occur in a safe manner.
- c. One (1) parking space for each employee shall be required.
- d. Such facilities must be licensed by the Pennsylvania Department of Public Welfare.

### H. Convenience Stores

1. Any fuel pumps shall be at least thirty (30) feet from the front lot line and thirty (30) feet from each side lot line.
2. No vehicle will be parked or stored along the front lot line except on a short-term basis [less than twelve (12) hours].
3. Any lot line abutting a residential use or district shall provide appropriate screening. Such screening shall be at least six (6) feet wide.
4. Canopy structures shielding gasoline pumps shall be no closer than twenty (20) feet from the front lot line or may follow the average setback of the structures adjacent on each side and twenty (20) feet from each side lot line.
5. Canopy height shall not exceed seventeen (17) feet overall, and canopy clearance measured from finish grade to the lowest point on the canopy fascia shall not exceed thirteen (13) feet nine (9) inches.
6. Lighting shall comply with section Sec. 513 of this Zoning Ordinance.

### I. **Bed and Breakfast Inns** - Such uses are intended to provide overnight or short-term [not more than two (2) weeks] accommodations for transient guests in a home-like atmosphere. The facility shall comply with state law regarding such facilities and must meet the following regulations:

1. All signs shall conform to Sec. 509 of this Zoning Ordinance.
2. No more than eight (8) guest rooms will be permitted.

3. One (1) off-street parking space for each guest room shall be required. Parking shall be on-lot.
4. The only meal served shall be breakfast and that shall only be provided to guests.

**J. Car Washes** - Car washes are subject to the following express standards and criteria:

1. All drainage water from car washing operations shall be contained on site, so as to not become a nuisance or hazard to adjoining properties, berms, or roadways. Compliance with Borough water, stormwater and sewer regulations shall be required.
2. All property lines adjoining residential use or zoning classification shall be screened by a screen planting area as defined by this Zoning Ordinance which is at least ten (10) feet in depth measured from the property line.
3. Outdoor areas for parking and queuing shall be covered with an impervious surface, off the public right-of-way, and shall be maintained free of debris and obstruction.

**Sec. 705 Nonconforming Uses**

The Zoning Hearing Board shall have the power to authorize changes of lawful nonconforming uses as follows:

- A. A nonconforming use which occupies a portion of a structure or premise may be extended within such structure or premises as they existed when the prohibitory provision took effect, but not in violation of the area and yard requirements of the districts in which such structure or premises are located.
- B. The Board may impose such conditions as it deems necessary for the protection of adjacent property and the public interest.

**Sec. 706 Appeal from Zoning Hearing Board's Decision**

Any person aggrieved by any decision of the Zoning Hearing Board or any taxpayer or any officer of the Borough, may within thirty (30) days after a decision is rendered by the Board, appeal to the Court of Common Pleas of Erie County, Pennsylvania in accordance with Article X-A of the Pennsylvania Planning Code.

## **PART 8**

### **Amendments**

#### **Sec. 801 General**

The Borough Council may introduce and consider amendments to this Zoning Ordinance and to the Zoning Map, as proposed by a member of the Borough Council, by the Planning Commission, or by a petition of a person residing or owning property within the Borough.

#### **Sec. 802 Petitions**

Petitions for amendment shall be filed with the Planning Commission, and the petitioner, upon such filing, shall pay an advertising deposit and filing fee, payable to the Borough in accordance with a schedule fixed by the Borough Council. The Planning Commission shall review the proposed amendment and report its findings and recommendations in writing to the Borough Council. All requests for rezoning shall be referred to the Erie County Department of Planning for their review and comment. Under the Planning Code the County may take up to forty-five (45) days for their action.

#### **Sec. 803 Action**

Before acting upon a proposed amendment, the Borough Council shall hold a public hearing thereon. Public notice of such public hearing, containing a brief summary of the proposed amendment and a reference to the place where copies of the same may be examined, shall be published twice in a newspaper of general circulation in the Borough at least seven (7) but not more than thirty (30) days prior to the hearing.

## PART 9

### Zoning Map Amendments

Ordinance/Resolution No.	Date	Description
693	9/25/1983	Rezoning a certain tract of land commonly known as 57, 59, and 61 South Lake Street from R-B Residential to C-1 Commercial.
701	5/7/1984	Rezoning certain tracts of land from C-1 Commercial to R-B Residential.
838	4/2/2007	Rezoning certain tracts of land commonly known as 5 and 7 Grahamville Street. and 150 South Lake Street from R-B Residential to C-1 Commercial.
869	12/5/2011	Rezoning 98 East Main Street from C-1 Commercial & R-A Residential to C-1 Commercial