

Chapter 266

ZONING

[HISTORY: Adopted by the Borough Council of the Borough of Penbrook 2-7-1981 by Ord. No. 81-10; amended in its entirety 7-2-1990 by Ord. No. 90-2. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Planning Commission — See Ch. 41.
 Shade Tree Commission — See Ch. 63.
 Animals — See Ch. 92.
 Brush, grass and weeds — See Ch. 100.
 Building construction — See Ch. 104.
 Cemeteries — See Ch. 116.
 Junkyards — See Ch. 160.
 Sewers — See Ch. 210.
 Stormwater management — See Ch. 226.
 Subdivision and land development — See Ch. 233.
 Trees — See Ch. 246.
 Vehicles and traffic — See Ch. 254.

ARTICLE I

Title, Authority, Purpose, Community Development Objectives

§ 266-1.Title.

This chapter shall be known as and may be cited as the "Penbrook Zoning Ordinance."

§ 266-2.Authority.

This chapter is enacted and ordained under the grant of powers by the General Assembly of the Commonwealth of Pennsylvania, Act 247, the "Pennsylvania Municipalities Planning Code," July 31, 1968, as amended.¹

§ 266-3.Purpose.

This chapter is enacted for the following purposes:

- A. To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, civil defense, disaster evacuation, the provision 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
- B. To prevent one or more of the following: overcrowding of land, blight, danger and

¹.Editor's Note: See 53 P.S § 10101 et seq.

congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers. This Zoning Ordinance is made in accordance with an overall program and with consideration for the character of the suitability of the various parts for particular uses and structures; and.

- C. To reduce dependence on depletable energy resources.

§ 266-4. Community development objectives.

The community development objectives are enumerated as follows:

- A. To provide an overall agreed-upon framework of policy against which individual proposals can be evaluated by the legislative body of the community.
- B. To provide a framework within which physical planning for needed facilities can be accomplished.
- C. To establish long-range development responsibilities and policies to which individual property owners, businessmen and industrialists can prepare and coordinate their plans for development.
- D. To establish a consensus about long-term growth potentials, objectives and priorities so that the community can undertake development projects based upon logic, realism, coordination and economy.

§ 266-5. Social objectives.

Social objectives shall be as follows:

- A. Social service planning: to develop a mechanism for social service planning to more adequately meet the unmet or partially served needs of all the community.
- B. Health and environment: to provide and make available to all members of the community the best health care and environmental sanitation possible.
 - (1) Support local, county and state agencies in overall health planning and development of preventive health programs.
 - (2) Enforce all ordinances in such areas as sanitation, air and water pollution.
 - (3) Encourage materials recycling and ecologically sound disposal of unrecycled waste.
- C. Housing: to provide decent housing for every member of the community in order to meet their physical and psychological needs.
 - (1) Adequate enforcement of all codes and ordinances which will ensure the health, safety and welfare of borough residents.
 - (2) Develop residential opportunities which are flexible and open, permitting a mixture of people in all areas.
 - (3) Encourage housing and land development procedures which permit

improvement and experimentation in housing types and construction, lot sizes, open space and community facilities.

- D. Recreation: to enhance and enrich the lives of the members of the community by providing the means for a more stimulating and rewarding use of increasing leisure time.
 - (1) Recreational facilities such as playgrounds and parks are to be improved and expanded.
 - (2) Reserve sites for active and passive recreation in areas of potential recreation value.

- E. Energy: to encourage public and private actions which will decrease dependence on external fuel supplies and encourage the use of renewable energy resources.
 - (1) Adopt policies to reduce nonrenewal energy in the heating, cooling and operations of buildings.
 - (2) Adopt policies to reduce energy consumption and vehicular emissions in the transportation sector.

§ 266-6.Economic objectives.

The community relies on the economy of the surrounding region for most employment opportunities, commercial development and industrial growth. Penbrook, however, does have a successful business community that should be fostered. For a majority of residents, Penbrook will continue to be a bedroom community.

§ 266-7.Physical objectives.

Physical objectives shall be as follows:

- A. Land use: to establish a land use pattern which provides the maximum opportunity for meeting human needs while complementing the distinctive features of the natural and man-made environment.
 - (1) Adopt and enforce effective land use controls.
 - (2) Minimize the conflicts between land uses in the borough.
 - (3) Coordinate and inter-relate local planning to the plans of the county, region and state.
 - (4) Encourage a relationship between land use and transportation which provides viable alternatives to vehicular use.

- B. Transportation: to develop a community-wide circulation system for serving existing and anticipated future land use, providing and shaping the extent and direction of community growth.
 - (1) Design the local street system to discourage through traffic in residential neighborhoods.

- (2) Encourage the growth and convenience of public transportation in the borough.
- (3) Encourage bicycling and walking as alternatives to vehicular use.

ARTICLE II
Terminology

§ 266-8.Word usage.

- A. The following words are defined in order to facilitate the ordinance for administrative purposes and in the carrying out of duties by appropriate officers and by the Zoning Hearing Board.
- B. Unless otherwise expressly stated, the following words shall, for the purpose of this chapter, have the meanings herein indicated.
- C. Words used in the present tense include the future tense.
- D. The singular includes the plural.
- E. The word "person" includes an individual, a corporation, a partnership, an incorporated association or any other similar entity.
- F. The word "lot" includes the words "plot" or "parcel."
- G. The term "shall" is always mandatory.
- H. 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 used or occupied."

§ 266-9.Definitions.

- A. As used in this chapter, the following terms shall have the meanings indicated:

ACCESS DRIVE — A paved surface, other than a street, which provides vehicular access from a street or private road to a lot.

ACCESSORY BUILDING — A building subordinate to and detached from the main building on the same lot and used for purposes customarily incidental to the main building.

ACCESSORY USE — A use customarily incidental and subordinate to the principal use of the main building and located on the same lot with such principal use or main building.

AGRICULTURE — The tilling of the soil, the raising of crops, horticulture and gardening.

ALCOHOLIC BEVERAGES — Any and all beverages, including malt beverages, which contain alcohol, liquor or such other intoxicating substances as are further defined in the Pennsylvania-Liquor Code, 47 P.S. § 1-101 et seq. [Added 2-6-1992 by Ord. No. 92-2]

ALLEY — A public thoroughfare other than a minor street which affords only a secondary means of access to abutting property and not intended for general traffic

circulation.

ALTERATIONS — As applied to a building or structure, a change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

ALTERATIONS, STRUCTURAL— Any change in the supporting members of a building such as bearing walls, columns, beams or girders.

ALTITUDE— The angular distance from the horizon to the sun.

AMENDMENT — A change in use in any district which includes revisions to the zoning text and/or the official zoning map; and the authority for any amendment lies solely with the governing body.

AMUSEMENT PLACE— A commercially operated enterprise with various devices for entertainment and which may have facilities for the sale of food, drink or merchandise.

ANIMAL HOSPITAL— A building used for the treatment, housing or boarding of animals.²

ANTENNA— Any system of wires, poles, rods, reflecting discs or similar devices used for the transmission or reception of electromagnetic waves which system is external to or attached to the exterior of any building. Antennas shall include devices having active elements extending in any direction and directional beam-type arrays having elements carried by and disposed from a generally horizontal boom which may be mounted upon and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be a part of the antenna. The height of an antenna shall be the total maximum to which it is capable of being raised and shall be measured from the highest point of the finished grade adjacent to the structure if ground-mounted or from the highest point of the roof section where mounted, if roof-mounted. If mounted on a chimney, the height will be measured from the point where the roof meets the chimney.

APARTMENT— A dwelling unit within a multiple dwelling. This classification includes apartments in apartment houses, bachelor apartments, studio apartments and kitchenette apartments. Conversion apartments are not included in this classification.

APARTMENT (CONVERSION) — An existing dwelling unit that is or was converted to a dwelling for more than one family.

APARTMENT HOUSE— A building arranged, intended or designed to be occupied by three or more families living independently of each other.

APPLICANT — A landowner or developer who has filed an application for development, including his heirs, successors and assigns.

APPLICATION FOR DEVELOPMENT — Every application, whether preliminary,

².Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

tentative or final, required to be filed and approved prior to the start of construction or development, including but not limited to an application for a building permit for the approval of a subdivision plat or plan or for approval of a development plan.

APPOINTING AUTHORITY — The Penbrook Borough Council.

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

AUTO BODY SHOP — Any structure or any building or part thereof that is used for the repair or painting of bodies, chassis, wheels, fenders, bumpers and/or accessories of automobiles and other vehicles of conveyance.

AUTO COURT — A building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units designed primarily for transient automobile travel and providing for accessory off-street parking facilities. The term "auto court" includes buildings designated as tourist cabins, motor lodges, motels and similar appellations.

AUTOMOBILE AND/OR MOBILE HOME SALES GARAGE — An open lot used for the outdoor display or sales of new or used automobiles or mobile homes where mechanical repairs and body work may be conducted as an accessory incidental to the primary use.

AUTOMOBILE AND/OR MOBILE HOME SALES LOT — An open lot used for the outdoor display or sales of new or used automobiles or mobile homes and where minor and incidental repair work (other than body and fender) may be done.

AUTOMOBILE SERVICE STATION — Any area of land, including any structures thereon, or any building or part thereof that is used for the retail sale of gasoline, oil, other fuel or accessories for motor vehicles and which may include facilities used for polishing, greasing, washing, dry cleaning or otherwise cleaning or servicing such motor vehicles; includes filling stations, but not including the storage of motor vehicles.

AUTOMOBILE WASHING (CAR WASH) — A building on a lot designed and used primarily for the washing and polishing of automobiles and which may provide accessory services as set forth herein for automobile service stations.

AUTOMOBILE WRECKING — The dismantling or wrecking of used automobiles or trailers or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

AUTOMOTIVE GARAGE — A building on a lot designed and/or used primarily for mechanical and/or body repairs, storage, rental, servicing or supplying of gasoline or oil to automobiles, trucks or similar motor vehicles.

AZIMUTH — The angular distance between true South and the point on the horizon directly below the sun (also referred to as "bearing").

BAFFLE — A freestanding randomly located structure, fence-like in nature and materials of construction, except that it is not normally attached to any building, does not

particularly follow lot lines nor enclose a particular area, but rather screens one segment of one property from another for the primary purpose of assuring privacy; a baffle or screen of this nature may also be utilized for the support of various types of living plant materials such as vines, climbing roses or espaliered trees and shrubs.

BASEMENT — A story partly underground but having at least 1/2 of its height above the average level of the adjoining ground. A basement shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet or it is used for business or dwelling purposes, other than a game or recreation room.

BEARING — See "azimuth."

BLOCK — An area bounded by streets.

BOARDINGHOUSE — A building arranged or used for the lodging, with or without meals, for compensation, by more than five and not more than 20 individuals.

BOAT — A small open vessel, floating craft or water craft of all sorts and sizes propelled by physical or mechanical means.

BUFFER YARD — See "yard, buffer."

BUILDING — Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals or chattels and including covered porches or bay windows and chimneys.

BUILDING ACCESSORY — A subordinate building or a portion of the main building on a lot, the use of which is customarily incidental to that of the main or principal building.

BUILDING, DETACHED — A building surrounded by open space on the same lot.

BUILDING FRONT LINE OF — The line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches, whether enclosed or unenclosed, but does not include steps.

BUILDING, HEIGHT OF — The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the decline of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

BUILDING LINE — A line parallel to the front, side or rear lot line set so as to provide the required yard.

BUILDING, MAIN — A building in which is conducted the principal use of the lot on which it is located.

BUILDING, NONCONFORMING — A building so located on a lot that it does not have the minimum front, side or rear yard required minimum distance between any enclosed structure and the adjacent property line.

BUILDING SETBACK LINE — A line parallel to the front, side or rear lot line set so as

to provide the minimum required yard.

B.Y.O.B. CLUB — Any business facility such as a dance hall, club or association not licensed by the Pennsylvania Liquor Control Board, wherein patrons 21 years of age and older may, after payment of an entry fee, cover charge or membership fee, consume alcoholic beverages which said patrons have carried onto the premises; also commonly referred to as "bring your own bottle" clubs; provided that a facility which is rented for a limited period of time, not to exceed 12 hours, by individual(s) or an organization for the purpose of a private party in which alcoholic beverages are carried onto the premises shall not be considered a B.Y.O.B. club. [Amended 2-6-1992 by Ord. No. 92-2]

CARPORT — A covered space, open on three sides, for the storage of one or more vehicles and accessory to a main or accessory building.

CARTWAY — That portion of a street or alley which is improved, designed or intended for vehicular use.

CELLAR — A story partly underground and having more than 1/2 of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the required number of stories.

CHILD — A person under 16 years of age.

CLEAR SIGHTED TRIANGLE — An area of unobstructed vision at street intersections. It is defined by lines of sight between points at a given distance from the intersection of the streets center lines.

COMMON OPEN SPACE — A parcel or parcels of land or an area of water or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of a planned residential development, not including streets, off-street parking areas and areas set aside for public facilities. Common open space shall be substantially free of structures but may contain such improvements as are in the development plan as finally approved and as are appropriate for the recreation of residents.

CONDITIONAL USES — Conditional use shall be allowed or denied by the governing body after recommendations by the Planning Commission, pursuant to express standards and criteria set forth in the Zoning Ordinance.

COUNTY — Dauphin County, Pennsylvania.

COURT — An unoccupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

COURT, INNER — A court enclosed on all sides by exterior walls of a building or by exterior walls and lot lines on which walls are allowable, and the court does not extend to a street, alley, yard or other outer court.

COURT, OUTER — A court enclosed on not more than three sides by exterior walls and lot lines on which walls are allowable, with one side or end open to a street, driveway, alley or yard.

COVERAGE — That portion or percentage of the plot or lot area covered by the building area.

CROSSWALK — A right-of-way, publicly or privately owned, intended to furnish access for pedestrians.

CUL-DE-SAC — A street intersecting another street at one end and terminating at the other in a vehicular turnaround.

CURB LEVEL — The officially established grade of the curb in front of the midpoint of the lot.

CUT — An excavation; the difference between a point on the original ground and a designated point of lower elevation on the final grade; also, the material removed in excavation.

DAY-CARE CENTER — A facility in which care is provided for seven or more children at any one time, where the child care areas are not being used as a family residence.

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

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

DISTRICT; ZONE — Includes all buildings, lots and surface areas within certain designated boundaries as indicated on the Zoning Map.

DOG KENNEL — A structure where three or more dogs that are more than six months old are kept for commercial purposes.

DUMP — A lot or land or part thereof used primarily for disposal by abandonment, dumping, burial or other means, and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or part thereof or waste material of any kind.

DWELLING — A building or structure designed for living quarters for one or more families, including mobile homes which are supported either by a foundation or are otherwise permanently attached to the land, but not including hotels, rooming houses or other accommodations used for transient occupancy.

DWELLING GROUP — A group of two or more single-family, two-family or multifamily dwellings occupying a lot in one ownership.

DWELLING, MULTIFAMILY— A building used by three or more families living independently of each other and doing their own cooking, including apartment houses.

DWELLING, SINGLE-FAMILY ATTACHED (ROW) — A building used by one

family and having two party walls in common with other buildings (such as row house or townhouse).

DWELLING, SINGLE-FAMILY DETACHED — A building used by one family, having only one dwelling unit and having two side yards.

DWELLING, SINGLE-FAMILY QUADRUPLEX — A building used by one family, having one side yard and two party walls in common with another building, one party wall being a side wall and one being a rear party wall.

DWELLING, SINGLE-FAMILY SEMIDETACHED — A building used by one family, having one side yard and one party wall in common with another building.

DWELLING, TWO-FAMILY DETACHED — A building used by two families, with one dwelling unit arranged over the other and having two side yards.

DWELLING, TWO-FAMILY SEMIDETACHED — A building used by two families, with one dwelling unit arranged over the other, having one side yard and one party wall in common with another building.

DWELLING UNIT — A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT, UTILITY — A right-of-way granted for limited use of land for public or quasi-public purpose.

ELECTRIC SUBSTATION — An assemblage of equipment for purposes other than generation of utilization, through which electric energy in bulk is passed for the purpose of switching or modifying its characteristics to meet the needs of the general public.

ELECTRIC TRANSMISSION AND DISTRIBUTION FACILITIES — Electric public utilities transmission distribution facilities, including substations.

ENGINEERING SPECIFICATIONS — The engineering specifications of the municipality regulating the installation of any required improvement or for any facility installed by any owner, subject to public use.

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

EROSION — The removal of surface materials by the action of natural elements.

EXCAVATION — Any act by which earth, sand, gravel, rock or any other similar materials is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed, and shall include the conditions resulting therefrom.

FAMILY — An individual or married couple and the children thereof with not more than two other persons related directly to the individual or married couple by blood or marriage, or a group of not more than five unrelated (excluding servants) persons, living together as a single housekeeping unit in a dwelling unit.

FAMILY DAY-CARE HOME — Any premises other than a child's own home, operated for profit or not for profit, in which child day care is provided at any one time to four, five or six children who are not relatives of the caregiver.

FENCE — Any freestanding and uninhabitable structure constructed of wood, glass, metal, plastic materials, wire, wire mesh or masonry, singly or in combination, erected for the purpose of screening or dividing one property from another to assure privacy or to protect the property so screened or divided or to define and mark the property line, when such structure is erected on or any front, side or rear lot line; for the purpose of this chapter, a freestanding masonry wall when so located is considered to be a fence; also for the purpose of this chapter, when the term "lot line" is used in relation to fences, it shall be synonymous with "rear yard lot lines," "side yard lot lines" and "front yard lot lines." Fences are not synonymous with "garden structures" which are defined elsewhere wherein.

FILL — Any act by which earth, sand, gravel, rock or any other material is placed, pushed, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface, and shall include the conditions resulting therefrom. The difference is elevation between a point on the original ground and a designated point of higher elevation on the final grade. The material used to make a fill.

FILLING STATION — Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or oil or fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such motor vehicles; includes automobile service.

FLOOR AREA, HABITABLE — The sum of the horizontal areas of all rooms used for habitation, measured between interior faces or walls, such as living room, dining room, kitchen or bedroom, but not including hallways, stairways, cellars, attics, service rooms or utility rooms, bathrooms, closets, nor unheated areas such as enclosed porches, nor rooms without at least one skylight or window opening onto an outside yard or court.

FLOOR AREA OF A BUILDING — The sum of the gross horizontal areas of the several floors of a building and its accessory buildings on the same lot, excluding cellar and basement floor areas not used as primary living and sleeping quarters, but including the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

FLOOR AREA RATIO — The ratio of floor area of a building to its lot area. When a floor area ratio of 1.3 is specified, the floor area of a building constructed on a lot of 10,000 square feet is limited to a maximum of 13,000 square feet. The number of stories being optional, the building area may be 6,500 square feet per story for two stories and so forth.

FLOOR AREA RETAIL, NET — All that space relegated to use by the customer and the retail employee to consummate retail sales and to include display areas used to indicate the variety of goods available for the customer but not to include office space, storage space and other general administrative areas.

GARAGE, PRIVATE — An enclosed or covered space for the storage of one or more vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises.

GARAGE, PUBLIC — Any garage other than a private garage and which is used for storage, repair, rental, servicing or supplying of gasoline or oil to motor vehicles.

GARDEN APARTMENT — A two-story multifamily dwelling, containing one-story dwelling units, under one ownership.

GARDENING — The cultivation of herbs, fruits, flowers or vegetables, excluding the keeping of livestock.

GARDEN STRUCTURES — Any accessory structure which may be occupied for other than sleeping or general housekeeping purposes or which serves as a shelter primarily for human beings, except a permitted garage, porch or carport, which is located in any side or rear yard not closer than three feet to any side or rear lot line; included in this category of structures are arbors, aviaries, pergolas, trellises, barbecue shelters, lathe house, private greenhouse and freestanding screens or baffles and similar structures as however called. No such structure may be located in any required front yard between the building setback line and the street line. Such structure may be solidly roofed and walled or open to the sky and on the sides, but if solidly roofed or solidly walled on more than two sides, it must be located within the building line of the lot and may not invade in any required yard. Unscreened, unroofed, unwalled or unfenced patios, birdbaths, ornamental pools and swimming pools are not considered as garden structures. Permitted structures may be attached to or be detached from a dwelling.

GRADE, ESTABLISHED — The elevation of the center line of the streets as officially established by the municipal authorities.

GRADE, FINISHED — The completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs relating thereto.

GROUND FLOOR — The floor of a building nearest the mean grade of the front of the building.

GROUP DAY-CARE HOME — A facility in which care is provided for more than six but fewer than 12 children at any one time, where the child care areas are being used as a family residence.

GOVERNING BODY — The Borough Council of Penbrook, Dauphin County, Pennsylvania.

HABITABLE SPACE — Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas are not considered habitable space.

HEIGHT OF BUILDING — The vertical distance measured from the mean level of the ground surrounding the building to a point midway between the highest and lowest point of the roof, but not including chimneys, spires, towers, elevator penthouses, tanks and similar projections.

HOME OCCUPATION — Any use customarily conducted entirely within a dwelling or in a building accessory thereto and carried on by the inhabitants residing therein, provided that the use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, the exterior appearance of the structure or premises is constructed and maintained as a residential dwelling and no goods are publicly displayed on the premises other than signs as provided herein.

HOSPITAL — Unless otherwise specified, includes sanitarium, sanatorium, preventorium, clinic, rest home, treatment or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

HOTEL — A building used as the more or less temporary abiding place of six or more individuals who are, for compensation, lodged, with or without meals, and in which no provision is made for cooking in any individual room or suite. A hotel may include restaurants, newsstands and other accessory services primarily for serving its occupants and only incidentally the public.

IMPERMISSIBLE INTERFERENCE WITH A SOLAR ENERGY SYSTEM — The blockage of solar energy received by a protected solar energy system to a degree greater than that which would have occurred by maximum development under the terms of existing zoning at the time the solar building permit for the protected system was granted.

IMPERVIOUS SURFACE — Any material which reduces and prevents absorption of stormwater into previously undeveloped land.

INCINERATOR — An approved device in which combustible material, other than garbage, is burned to ashes.

INDUSTRY — The manufacturing, compounding, processing, assembly or treatment of materials, articles or merchandise.

JUNKYARD — A lot, land or structure or part thereof, used primarily for the collecting, storage and sale of waste paper, rags, scrap metal or discarded material or for the collection, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof.

LAND DEVELOPMENT

- (1) Any of the following activities:
 - (a) The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
 - [1] A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots, regardless of the number of occupants or tenure; or
 - [2] The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of or for the purpose of streets, common areas, leaseholds, condominiums, building groups or

other features.

- (b) A subdivision of land.
- (2) Except the following, which shall be excluded from the definition of land development:
 - (a) The conversion of an existing single-family detached dwelling or single-family semidetached dwelling into not more than three residential units, unless such units are intended to be a condominium; or
 - (b) The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building.

LANDOWNER — The legal or beneficial owner or owners of land, including the holder of an option or contract to purchase (whether or not such option is subject to any conditions), or a lessee if he is authorized under the lease to exercise the rights of the landowner.

LAUNDERETTE — A business premises equipped with individual clothes washing and/or drying machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use in an apartment house or an apartment hotel.

LIGHTING

- (1) **DIFFUSED** — That form of lighting wherein the light passes from the source through a translucent cover or shade.
- (2) **DIRECT** or **FLOOD** — That form of lighting wherein the source is visible and the light is distributed directly from it to the object to be illuminated.
- (3) **INDIRECT** — That form of lighting wherein the light source is entirely hidden, the light being projected to a suitable reflector from which it is reflected to the object to be illuminated.

LIVESTOCK — Farm animals, including but not limited to pigs, horses, cows, goats and poultry, which are kept or raised for use and/or profit.³

LOADING SPACE — An off-street space on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials and which abuts on a street or other appropriate means of access.

LODGING HOUSE (ROOMING HOUSE) — Any building or portion thereof containing not more than five guest rooms which are used by not more than five guests where rent is paid in money, goods, labor or otherwise. A lodging house shall comply with all the requirements for dwellings.

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.

³.Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

LOT AREA — The area contained within the property lines of a lot as shown on a subdivision plan excluding space within any street, but including the area of any easement.

LOT, CORNER — A lot at the junction of and abutting on two or more intersecting streets or private roads or at the point of abrupt change of a single street or private road, where the interior angle is less than 135° and the radius of the street or private road line is less than 100 feet.

LOT COVERAGE — That portion of the lot that is covered by buildings and other impervious surfaces.

LOT, DEPTH OF — The average horizontal distance between the front and rear lot lines.

LOT, DOUBLE FRONTAGE — An interior lot having frontage on two streets.

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

LOT LINES — The lines bounding a lot, as defined herein.

LOT, MINIMUM WIDTH — The minimum lot width at the building setback line.

LOT, NONCONFORMING — A lot, the area or dimension of which was lawful prior to the adoption or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption or amendment.⁴

LOT OF RECORD — A lot which has been recorded in the office of the Recorder of Deeds of Dauphin County, Pennsylvania.

LOT, REVERSE FRONTAGE — A lot extending between and having frontage on an arterial street and a minor street and with vehicular access solely from the latter.

LOT, THROUGH OR DOUBLE FRONTAGE — A lot with front and rear street frontage.

MAJOR THOROUGHFARES — A street or highway designated as an existing or planned major thoroughfare.

MANUFACTURING — The processing and/or converting of raw unfinished or finished materials or products, or any or either of them, into an article or substance of different character or for use for a different purpose; industries furnishing labor in the case of manufacturing or the refinishing of manufactured articles.

MASSAGE — Any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external parts of the human body with the hands or with the aid of any mechanical, electrical apparatus or appliances, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the

⁴.Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or any gratuity therefor.

MASSAGE PARLOR — Any establishment having a source of income or compensation derived from the practice of massage and which has a fixed place of business where any person, firm, association or corporation engages in or carries on the practice of massage.

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

MIXED OCCUPANCY — Occupancy of a building or land for more than one use.

MOBILE HOME — A transportable, single-family dwelling intended for permanent occupancy, contained in one unit or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.⁵

MOBILE HOME LOT — A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home, which is leased by the park owner to the occupants of the mobile home erected on the lot.

MOBILE HOME PARK — A parcel of land under single ownership which has been planned and improved for the placement of mobile homes for nontransient use, consisting of two or more mobile home lots.

MOTEL — A building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units, designed with separate entrances and designed for year-round occupancy, primarily for transient automobile travelers, and providing for accessory off-street parking facilities. The term "motel" includes buildings designated as tourist courts, tourist cabins, motor lodges and similar terms.

MUNICIPALITY — Penbrook Borough, Dauphin County, Pennsylvania.

NONCONFORMING BUILDING — A building or structure which does not conform to all the height, area, yard and court regulations of the district in which it is located.

NONCONFORMING SIGN — A sign which does not conform to the regulations of the district in which it is located.

NONCONFORMING STRUCTURE — A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason of annexation. Such

⁵.Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

nonconforming structures include but are not limited to nonconforming signs.⁶

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

NURSERY, HORTICULTURE — Any lot or parcel of land used to cultivate, propagate and grow trees, shrubs, vines and other plants, including the buildings, structures and equipment customarily incidental and accessory to the primary use.

NURSING OR CONVALESCENT HOME — A building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire and which is approved for nonprofit agencies licensed for profit-making operations by the Pennsylvania Department of Public Welfare for such use.

OBSCENE MATERIALS — Any literature, book, magazine, pamphlet, newspaper, story paper, paper, comic book, writing, drawing, photograph, figure, image, motion picture, sound recording, article, instrument or any other written or printed matter which depicts or describes in a patently offensive manner sexual conduct, sexual excitement or sadomasochistic abuse or (in the case of articles or instruments) is designed or intended for use in achieving artificial sexual stimulation; and, taken as a whole, appeals to the prurient interest; and, taken as a whole, does not have serious literary, artistic, political or scientific value.

OFFICE BUILDING — A building designed or used primarily for office purposes, no part of which is used for manufacturing or for a dwelling.

OFFICE, PROFESSIONAL — A room or rooms used for the carrying on of a profession.

OFFICIAL MAP — A map adopted by ordinance pursuant to Article 4 of the Pennsylvania Municipalities Planning Code (Act 247, as amended).⁷

OPEN SPACE — The unoccupied space open to the sky on the same lot with the building, not including parking lots.

PARKING LOT, PUBLIC — Any lot, municipally or privately owned, for off-street parking facilities, providing for the transient storage of automobiles or motor-driven vehicles. Such parking services may be provided as a free service or may be provided for a fee.

PARKING SPACE — The space within a building or on a lot or parking lot for the parking or storage of one automobile.

PERSON — Any individual or group of individuals, partnership or corporation.

PLANNING AGENCY — A planning commission, planning department or a planning

⁶.Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

⁷.Editor's Note: See 53 P.S § 10101 et seq.

committee of the governing body.

PLAN, SKETCH — An informal plan, not necessarily to exact scale, indicating salient existing features of a tract and its surroundings and the general layout of a proposed subdivision.

PLAT — The map or plan of a subdivision or land development, whether preliminary or final.

PLAT, FINAL — A complete and exact subdivision plan prepared for official recording as required by statute.

PLAT, PRELIMINARY — A tentative subdivision plan, in lesser detail than the final plan, indicating the approximate proposed layout of a subdivision as a basis for consideration prior to preparation of the final plan.

PORCH — A covered area in excess of four feet by five feet or 20 square feet in area at a front, side or rear door.

PREMISES — Any lot, parcel or tract of land and any building constructed thereon.

PRIVATE — Not publicly owned, operated or controlled.

PRIVATE ROAD — A legally established right-of-way, built to applicable specifications, other than a street, which provides the primary vehicular and/or pedestrian access to a lot.

PROFESSIONAL OCCUPATION — The practice of a profession by any attorney, physician, surgeon, osteopath, chiropractor, dentist, optician, optometrist, chiropodist, engineer, surveyor, architect, landscape architect or city planner entitled to practice under the laws of the Commonwealth of Pennsylvania.

PRURIENT INTEREST — Is to be judged with reference to average adults unless it appears from the nature of the material or the circumstances of its dissemination, distribution or exhibition that it is designed for clearly defined deviant sexual groups, in which case the predominant appeal of the matter shall be judged with reference to its intended recipient group.

PUBLIC — Owned, operated or controlled by a government agency (federal, state or local, including a corporation created by law for the performance of certain specialized governmental functions and the Board of Education).

PUBLIC GROUNDS — Include the following:

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

PUBLIC HEARING — A formal meeting held pursuant to public notice by the

governing body or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with this chapter.

PUBLIC MEETING — A forum held pursuant to notice under the Act of July 3, 1986 (P.L. 388, No. 84), known as the "Sunshine Act."⁸

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

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.

RESIDENCE — A building or structure wholly or partially used for living, sleeping, eating, cooking and sanitation by human occupants. [Added 2-6-1992 by Ord. No. 92-2]

RIGHT-OF-WAY STREET — A public thoroughfare for vehicular traffic and/or pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, alley or however designated.

ROW HOUSE — See "dwelling, single-family attached."

RUNOFF — The surface water discharge or rate of discharge of a given watershed after a fall of rain or snow that does not enter the soil but runs off the surface of the land.

SADOMASOCHISTIC ABUSE — Flagellation or torture by or upon a person who is nude or clad in undergarments, a mask or bizarre costume or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

SANITARIUM; SANATORIUM — A private hospital, whether or not such facility is operated for profit.

SCHOOL — Any place offering instruction in any branch of knowledge under the supervision of the Commonwealth of Pennsylvania or a lawfully constituted ecclesiastical governing body, person, partnership or corporation meeting the requirements of the Commonwealth of Pennsylvania.

SCHOOL, NURSERY — Any place designed and operated to provide regular instruction and daytime care for two or more children under the age of elementary school.

SCHOOL, VOCATIONAL — Same as elementary and secondary school, except that the primary activity is training in a trade or vocation.

SCREEN PLANTING — A vegetative material of sufficient height and density to conceal from the view of property owners in adjoining residential districts the structures

⁸.Editor's Note: See 65 P.S. § 271 et seq.

and uses on the premises on which the screen planting is located.

SEDIMENTATION — The process by which mineral or organic matter is accumulated or deposited by moving wind, water or gravity. Once this matter is deposited (or remains suspended in water), it is usually referred to as "sediment."

SEXUAL CONTACT — Actual or simulated acts of human masturbation, sexual intercourse or any touching of the clothed or unclothed genitals, pubic areas or buttocks of the human male or female or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals.

SEXUAL EXCITEMENT — The condition of human male or female genitalia when in a state of sexual stimulation or arousal.

SHOPPING CENTER — A group of stores planned and designed to function as a unit for the lot on which it is located with off-street parking provided as an integral part of the unit.

SIGHT DISTANCE — The length of roadway visible to the driver of a passenger vehicle at any given point on the roadway when the view is unobstructed by traffic.

SIGN — Any structure or device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge or insignia of any government or government agency or of any civic, charitable, religious, patriotic, fraternal or similar organization.

SIGN, ADVERTISING — A sign intended for the painting, posting or otherwise displaying of information inviting attention to any product, business, service or cause not necessarily located on or related to the premises on which the sign is situated.

SIGN, BUSINESS — A sign which directs attention to a use conducted, product or commodities sold or service performed upon the premises.

SIGN, GROUND OR POLE — A sign which is supported by structures or supports in or upon the ground independent of support from any building.

SIGN, IDENTIFICATION — A sign or nameplate indicating the name of noncommercial buildings or occupants thereof or describing the use of such buildings or, when displayed at a residence, indicating a home occupation legally existing thereat.

SIGN, NONCONFORMING — Any sign lawfully existing on the effective date of this chapter or any amendment thereto which renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance.

SIGN, OFF-PREMISES ADVERTISING — A sign, including billboards, intended for the painting, posting or otherwise displaying of information inviting attention to any product, business, service or cause not located on or related to the premises on which the sign is situated.

SIGN, PROJECTING — A sign other than a wall sign affixed to any building or wall whose leading edge extends beyond such building or wall.

SIGN, REAL ESTATE — A sign relating to the property upon which it is located, offering such property for sale or lease, announcing improvements or changes in connection therewith, warnings or other similar notices concerning such property.

SIGN, ROOF — Any device or structure erected for advertising or identification purposes upon or above the roof of any building or structure or part thereof.

SIGN, SERVICE — A sign which is incidental to a use lawfully occupying the property upon which the sign is located, which sign is necessary to provide information to the public such as direction to parking lots, location of rest rooms or other such pertinent facts.

SIGN, TEMPORARY — Any sign, banner, cardboard or other material carrying an advertisement or announcement which is displayed or intended to be displayed for a period not exceeding 60 days.

SIGN, WALL — A sign painted on or affixed to and paralleling the outside wall of building and extending not more than 18 inches from such wall.

SIGN, WINDOW — A sign placed inside or upon a window facing the outside and which is intended to be seen from the exterior.

SLOPES — The face of an embankment or cut section; and ground whose surface makes an angle with the plane of the horizon. Slopes are usually expressed in a percentage based upon vertical difference in feet per 100 feet of horizontal distance.

SOIL STABILIZATION — Chemical or structural treatment designed to increase or maintain the stability of a mass of soil or otherwise to improve its engineering properties.

SOLAR ENERGY — Radiant energy (direct, diffuse or reflected) received from the sun at wavelengths suitable for conversion into thermal, chemical or electrical energy.

SOLAR ENERGY COLLECTOR — Any device, structure or part of a device or structure which is used primarily to transform solar energy into thermal, chemical or electrical energy. It includes any space or structural component specifically designed to retain heat derived from solar energy.

SOLAR ENERGY SYSTEM — A complete design or assembly consisting of a solar energy collector, an energy storage facility (where appropriate) and components for the distribution of transformed energy to the extent that they cannot be used jointly with a conventional energy system. Passive solar energy systems are included in this definition but not to the extent that they fulfill structural or other functions.

SOLAR ENERGY SYSTEM (ACTIVE) — A solar system that required external mechanical power to move collected heat.

SOLAR ENERGY SYSTEM (PASSIVE) — A solar energy system that uses natural properties of materials and architectural components to collect and store solar energy without using any external mechanical power.

SOLAR SKYSPACE — The space between a given location and the sun which must remain unobstructed between 9:00 a.m. and 3:00 p.m., mean solar time, in order to permit

sufficient solar energy to impinge on that location to allow thermally efficient solar utilization.

SOLAR SKYSPACE EASEMENT — A right, expressed as an easement, covenant or condition or other property interest in any deed or other instrument executed by or on behalf of any landlord, which protects the solar skyspace of an actual, proposed or designated solar energy collector at a described location by forbidding or limiting activities or land uses that interfere with access to solar energy. The solar skyspace may be described as three-dimensional space in which an obstruction is prohibited or limited or as the times of day during which direct sunlight to the solar energy collector may not be obstructed, or as a combination of the two methods.

STORAGE FACILITY — A structure intended for lease for the sole purpose of storing household goods, motor vehicles or recreational equipment.

STORY — That portion of any building included between the surface of any floor and the surface of the next floor above it, or, if there is no floor above it, then the space between such floor and the ceiling next above it.

STORY, HALF — A story under a gabled, hipped or gambreled roof, the wall plates of which on at least two opposite exterior walls are not over two feet above the finished floor of such story.

STREET — A public or private right-of-way, built to applicable specifications, which affords primary vehicular traffic or pedestrian access to abutting properties; includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct and any other ways used or intended to be used as vehicular traffic or pedestrian access.

STREET GRADE — The officially established grade of the street upon which a lot fronts or in its absence the established grade of the other streets upon which the lot abuts, at the midpoint of the frontage of the lot thereon. If there is no officially established grade, the existing grade of the street at such midpoint shall be taken as the street grade.

STREET LINE — The dividing line between the street and the lot, also known as the "right-of-way line."

STREET, MAJOR

- (1) **ARTERIAL STREET** — A major street or highway with fast or heavy traffic of considerable continuity and used primarily as a traffic artery for intercommunication among large areas.
- (2) **COLLECTOR STREET** — A major street or highway which carries traffic from minor streets to arterial streets, including the principle entrance streets of a residential development and streets for circulation within such a development.

STREET, MINOR — A street used primarily for access to abutting properties.

STREET WIDTH — The distance between street lines measured at right angles to the center line of the street.

STRUCTURE — Any man-made object having an ascertainable stationary location, on land or water, whether or not affixed to the land, including but not limited to flagpoles, stadiums, platforms, towers, sheds, storage bins, fences exceeding four feet in height, signs and signposts, lights and light standards for other than residential use, but excepting patios, driveways, walks and parking areas at yard grades.

STUDIO, DANCING OR MUSIC — The use of a premises by a teacher of music or dancing where students are taught these arts for a fee and where more than one student may be taught in a class at one time. This term is synonymous with "dancing school" and "music school" and other similar expressions.

SUBDIVIDER — The owner or authorized agent of the owner of a lot, tract or parcel of land to be subdivided under this chapter; same as applicant.

SUBDIVISION — The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development; provided, however, that the division of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access, shall be exempted.

SUBSTANTIAL IMPROVEMENTS — Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the actual cash value of the structure either before improvement is started or, if the structure has been damaged and is being restored, before the damage occurred.

SURFACE DRAINAGE PLAN — A plan showing all present and proposed grades and facilities for stormwater drainage.

SWALE — A low lying stretch of land characterized as a depression used to carry surface water runoff.

SWIMMING POOL — Any artificially constructed portable or permanent swimming pool, either above or below the surface of the ground, designed to hold water and to be used for the purposes of a swimming pool either for wading, bathing or swimming purposes. Further, a swimming pool, either aboveground or in-ground, shall mean such pools having sidewalls greater than two feet or having a water surface area greater than 100 square feet. A swimming pool shall not include any structure of solid material either above or below the surface of the ground having a water surface of less than 100 square feet even if permanently equipped with a water circulating system or involve structural material such as a jacuzzi or hot tub. The term "swimming pool" shall include an aboveground swimming pool, as hereinafter defined, and an in-ground swimming pool, as hereinafter defined.

SWIMMING POOL, ABOVEGROUND — Any artificially constructed portable or permanent swimming pool capable of being used for swimming or bathing, having a sidewall depth of two feet or more measured from the top of the sidewall to the bottom of the swimming pool at any point, and does not meet the definition of an in-ground swimming pool.

SWIMMING POOL, IN-GROUND — Any artificially constructed permanent swimming pool capable of being used for swimming or bathing, having a sidewall depth (from the top of sidewall to bottom of pool) of two feet or more at any point. An in-ground swimming pool shall not extend more than six inches (measured from the coping) above any point of the surrounding finished grade.

SWIMMING POOL, PRIVATE — An outdoor swimming pool, to include aboveground swimming pool and in-ground swimming pool, used or intended to be used solely by the owner or owners of the residential property, his, her or their guests or lessee thereof and his, her or their family and their guest invited to use it without payment of any charge for admission or other charge.

SWIMMING POOL, PUBLIC — A swimming pool constructed and used by persons other than a private family and their guest where admission or other charge is made.

TELEPHONE CENTRAL OFFICE — A building and its equipment erected and used for the purpose of facilitating transmission and exchange of telephone and radio messages between subscribers and other business of telephone company, provided that in a residential district a telephone central office shall not include public business facilities, storage of materials, trucks or repair facilities or housing or repair crews.

THEATER — A building or part of a building devoted to the showing of moving pictures or theatrical productions on a paid admission basis.

TOPSOIL — Surface soils and subsurface soils which presumably are fertile soils and soil material ordinarily rich in organic matter or humus debris. Topsoil is usually in the uppermost soil layer called the "A horizon."

TOURIST HOME — A dwelling in which overnight accommodations are provided or offered for transient guests for compensation.

TOWNHOUSE — See "dwelling, single-family attached."

TRANSFERABLE DEVELOPMENT RIGHTS — The attaching of development rights to specified lands which are desired by a municipality to be kept undeveloped, but permitting those rights to be transferred from those lands so that the development potential which they represent may occur on other lands within the municipality where more intensive development is deemed by the municipality to be appropriate.

TRANSFORMER SUBSTATION — An electric substation containing an assemblage of equipment for the purpose other than generation or utilization, through which electric energy in bulk is passed for the purpose of switching and modifying its characteristics to meet the needs of the general public, provided that in a residential district an electric substation shall not include rotating power equipment, storage of materials, trucks or repair facilities or housing of repair crews.

UNDEVELOPED LAND — Any lot, tract or parcel of land which has not been graded or in any other manner prepared for the construction of a building.

USE — The specific purpose for which land or a building is designated, arranged, intended or for which it is or may be occupied or maintained. The term "permitted use" or

its equivalent shall not be deemed to include any nonconforming use.

VARIANCE — The permission granted by the Zoning Hearing Board for an adjustment to some regulation which if strictly adhered to would result in an unnecessary physical hardship, where the permission granted would not be contrary to the public interest and would maintain the spirit and original intent of the ordinance.

WATERCOURSE — A stream of water, river, brook, creek or a channel or ditch for water, whether natural or man-made.

WIND ENERGY CONVERSION SYSTEM (WECS) — A device which converts wind energy to mechanical or electrical energy.

WINDOW — An opening to the outside, other than a door, which provides all or part of the required natural light, natural ventilation, or both, to an interior space.

WIND ROTOR — The blades, plus hub to which the blades are attached, that are used to capture wind for purpose of energy conversion. The wind rotor is used generally on a pole or tower and along with other generating and electrical storage equipment forms a wind conversion system.

YARD — An unoccupied space, other than a court, open to the sky, on the same lot with a building or structure.

YARD, BUFFER — A strip of required yard space adjacent to the boundary of a property or district, not less than the width designated in this chapter and on which is placed (planted) year-round shrubbery, hedges, evergreens or other suitable plantings of sufficient height and density to constitute an effective screen and give maximum protection and immediate screening to an abutting property or district and may include a permissible wall.

B. The following words and phrases, when used in Article XIV, shall have the meanings given to them in this section unless context clearly indicates otherwise:

BOARD — Any body granted jurisdiction under a land use ordinance or under the Pennsylvania Municipalities Planning Code⁹ to render final adjudications.

DECISIONS — Final adjudication of any board or other body granted jurisdictions under any land use ordinance or the Pennsylvania Municipalities Planning Code¹⁰ to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be applicable to the Court of Common Pleas of the county and judicial district wherein the municipality lies.

DETERMINATION

- (1) Final action by an officer, body or agency charged with the administration of any land use ordinance or applications thereunder, except the following:

⁹.Editor's Note: See 53 P.S § 10101 et seq.

¹⁰.Editor's Note: See 53 P.S § 10101 et seq.

- (a) The governing body;
 - (b) The Zoning Hearing Board; or
 - (c) The planning agency, only to the extent the planning agency is charged with the final decision on preliminary or final plans under the Subdivision and Land Development Ordinance¹¹ or planned residential development provisions.
- (2) 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 Article XIV.

LAND USE ORDINANCE — Any ordinance or map adopted pursuant to the authority granted in Article I.

REPORT — Any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant, other than a solicitor, to any other 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 to any proceeding upon request, and copies thereof shall be provided at cost of reproduction.

ARTICLE III
General Regulations

§ 266-10.Applicability.

The following regulations shall qualify or supplement the district regulations appearing elsewhere in this chapter.

§ 266-11.Use regulations.

- A. ¹²Clubs, lodges and fraternal organizations. In districts where permitted, these and similar uses are restricted to those not conducted primarily for gain, although a dining room may be operated for the benefit of club members, provided that no permanent sign advertising the sale of food or beverages will be permitted. Buildings or structures hereafter converted or erected for such use are subject to all applicable regulations for the district in which the facility is to be located.
- B. Dwelling groups. A dwelling group may be erected, altered, changed and used in any district permitting residential uses, provided that:

¹¹.Editor's Note: See Ch. 233, Subdivision and Land Development.

¹².Editor's Note: Former Subsection A1, Apartment: (Conversion), which immediately preceded this section, was deleted 5-1-1995 by Ord. No. 95-3, which ordinance also renumbered former Subsections A2 through A22 as A1 through A21.

- (1) As a land development, a plat is prepared and submitted to the borough in accordance with the requirements of the county's Subdivision and Land Development Ordinance.
 - (2) Each dwelling in the group shall comply with the use, height, area, width, yard and coverage regulations of the district in which it is located.
 - (3) All buildings will be served by a public sanitary sewage system and public water supply.
 - (4) Parking shall be provided in accordance with the provisions of Article X, entitled "Off-Street Parking."
- C. Gardening shall be permitted in any district.
- D. Garden apartments. In districts where permitted, all garden apartments shall comply with the following:
- (1) There shall be not more than 18 dwelling units per building.
 - (2) No garden apartment building shall be in excess of three stories in height.
 - (3) Lot area per dwelling unit shall not be less than the area required by the district regulations when served by both public water and sanitary sewers.
 - (4) All applicable provisions of this chapter.
- E. Commercial uses. In order that the Zoning Officer may have a reasonable basis upon which to approve a proposed commercial operation for conformity to the requirements of this chapter, the following data shall be submitted with an application for a permit:
- (1) Plot plan.
 - (2) Architectural plan.
 - (3) Description of operation.
 - (4) Engineering and architectural plans for water supply and sewage disposal.
 - (5) Plans for prevention or control of noise, vibration, glare, fire hazards, air pollution, water pollution and traffic.
 - (6) Proposed fuel.
 - (7) Number of shifts and maximum employment per shift.
 - (8) Additional pertinent data as may be required by the Zoning Officer.
 - (9) Where two or more buildings or any nonresidential buildings are proposed as a land development, plats shall be prepared and submitted to the borough in accordance with the requirements of the county's Subdivision and Land Development Ordinance.
- F. Home occupation. Home occupations are permitted subject to the following

conditions:

- (1) The home occupation shall be carried on completely within the dwelling unit or accessory building.
 - (2) Not more than one person other than the occupants of the dwelling unit shall be employed.
 - (3) Not more than 1/2 the floor area of a main building shall be devoted to home occupation.
 - (4) Articles sold or offered for sale shall be limited to those produced on the premises.
 - (5) There shall be no exterior display or sign (except as permitted in the regulation on signs in this chapter), no exterior storage of materials and no other exterior indication of the home occupation or variation of the residential character of the main building.
 - (6) No offensive noise, vibration, smoke or other particulate matter, heat, humidity, glare or other objectionable effects shall be produced.
 - (7) A home occupation may include but is not limited to a professional, medical or osteopathic physician, dentist, podiatrist, chiropracist, lawyer, optometrist, engineer, architect, artist, teacher, dressmaker, barbershop, beauty parlor, real estate or insurance office.
- G. Medical or dental clinical buildings. Where permitted in a residential district, a building for use as a medical or dental clinic may be erected and used subject to the following conditions:
- (1) The building shall be occupied and used only by persons licensed to practice the healing arts in the Commonwealth of Pennsylvania and their staffs.
 - (2) The lot area shall not be less than 15,000 square feet.
 - (3) The front yard depth shall be in accordance with Article VI, § 266-35A; the side yard width shall be a total of 45 feet with a minimum of 15 feet on one side; the rear yard depth shall be 35 feet.
 - (4) The side and locations of these spaces shall be in accordance with the provisions of Article X, entitled "Off-Street Parking."
 - (5) An architectural sketch of the building and a plot plan showing the size and location of the building, parking areas and driveways shall be submitted to the governing body and Planning Commission for review and approval.
 - (6) Where two or more buildings or any nonresidential buildings are proposed as a land development, plats shall be prepared and submitted to the borough in accordance with the requirements of the county' s Subdivision and Land Development Ordinance.
- H. Mobile home. A mobile home shall be permitted in the R-MT District subject to the

following regulations:

- (1) A mobile home and the site it occupies shall conform to the residential requirements for dwellings in the district in which it is located and shall be located within a mobile home park.
 - (2) Such use shall comply with all other rules, regulations or ordinances of the borough.
- I. Mobile home parks. Where permitted as a land development, plats shall be prepared and submitted to the borough in accordance with the requirements of the county's Subdivision and Land Development Ordinance.
- J. Motels. In the district where permitted, motels shall be subject to the following safeguards and regulations:
- (1) Where two or more buildings or any nonresidential buildings are proposed as a land development, plats shall be prepared and submitted to the borough in accordance with the requirements of the county's Subdivision and Land Development Ordinance.
 - (2) No motel shall have a lot area of less than one acre, and where building is proposed, plans shall be submitted and approved by the Borough Council after recommendation from the Planning Commission.
 - (3) Motels shall be connected to a public sanitary sewer and water supply.
 - (4) Front, side and rear yards of the motel shall be permanently landscaped and maintained in good condition.
 - (5) Off-street parking and loading spaces for other facilities developed as part of the motel premises shall be provided as required by Article X of this chapter.
 - (6) Every unit shall be provided with running hot and cold water and separate toilet facilities.
 - (7) Motel buildings or parts thereof shall be placed no closer to any lot line than 30 feet.
 - (8) The space between motel buildings shall be not less than 20 feet and the space between the fronts and rears of units shall be not less than the dimensions required for courts, where such are formed by the arrangement of units, except where parking is proposed. In such cases, the distance between the fronts and/or rear of units shall be approved the County as required by Subsection J(1) above.
 - (9) When the application for a permit is for a single motel building, a plan shall be submitted to the Zoning Officer showing the following:
 - (a) Extent and area of property.
 - (b) Entrance, exits, driveways, roads, parking areas and walks.

- (c) Location of the main building and accessory buildings.
 - (d) Plan for storm drainage.
 - (e) Plan for soil erosion and sedimentation control approved by the County Conservation District.
 - (f) Plan for supply of electricity, gas and other utilities.
 - (g) Where entrances and exits of driveways are located on state highways, copies of permits secured from the Pennsylvania Department of Transportation shall be submitted with the plan.
- (10) Before issuing a permit, the Zoning Officer shall submit the plan for such single motel building proposal to the governing body for approval.
- K. Municipal uses. In any district, a building may be erected, altered or extended and land may be developed which is arranged, intended or designed for municipal uses, including municipal recreation use.
- L. Swimming pools, private. Private swimming pools shall be a permitted accessory use in any district and shall comply with the following conditions and requirements:
- (1) Definitions. As used in this § 266-11L, the definitions of "swimming pool," "aboveground swimming pool," "in-ground swimming pool," "private swimming pool" and "public swimming pool," as defined in Article II, § 266-9, of this chapter, shall apply.¹³
 - (2) Applicability. This subsection shall apply to all new swimming pools hereafter constructed or those pools or yards to which renovation or reconstruction takes place. This part shall not apply to public swimming pools.
 - (3) Construction.
 - (a) Application for building permit. Before any work is commenced on the construction of a swimming pool or any addition, alteration, remodeling or other improvement to any swimming pool, an application for a building permit, together with plans and specifications pertinent to the construction, as well as explanatory data, shall be submitted to the Code Official. No part of the work (including earth removal) shall be commenced until proof that a building permit has been issued by the Code Official. The fee for such building permit shall be established, from time to time, by resolution of the Borough Council.
 - (b) Plans and specifications. The plot plan shall show the location of all buildings, including but not limited to the principal residence or structure and accessory building, if any, the location of the proposed swimming pool on the property, distances to all property lines in the

¹³.Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

immediate vicinity of the swimming pool, location of utility lines and location of proposed closure or fence around the swimming pool or property.

- (c) Standard swimming pools. Standard swimming pools designed by established swimming pool companies, having been previously approved by a registered engineer or registered architect, shall be acceptable. Further, a standard swimming pool kit (the components of the swimming pool to be constructed or installed by the applicant) designed by established swimming pool companies, having been previously approved by a registered engineer or registered architect, shall be acceptable.
- (4) Enclosure.
- (a) Every swimming pool, whether in-ground or aboveground, shall be completely surrounded by a fence, wall or similar enclosure not less than 3 1/2 feet in height, which, if constructed of wire, shall be constructed as to have no openings, gaps or holes larger than two inches in any dimension and in conformance with § 266-17 of the Penbrook Zoning Ordinance pertaining to fences. If the fence or wall is a picket fence, the horizontal dimensions maintained shall not exceed four inches. A dwelling or accessory building may be used as part of such enclosure.
 - (b) All gates through such enclosures shall be self-closing and equipped with self-latching devices on the swimming pool side for keeping the gate securely closed at all times when not in use, except that the door of any dwelling or accessory building which forms a part of such enclosure need not be so equipped. The self-latching device shall be at least three feet above ground level. The fence, wall or similar enclosure shall completely surround the pool and deck area; provided, however, that the fence may be constructed at or near the rear or side property lines of the property.¹⁴
 - (c) Aboveground swimming pools having walls of four feet or greater in height may be excluded from the enclosure requirement as set forth in the preceding paragraph, provided that such aboveground swimming pool is equipped with fencing around the top of the pool of at least 36 inches and an access ladder or access ladders which may be raised and located in a near vertical position when the pool is unattended. If the aboveground swimming pool is not equipped with fencing and an access ladder or ladders which may be raised and locked in a near vertical position, then the aboveground swimming pool shall be enclosed as provided in this section.
- (5) Location on the property. A swimming pool shall be located to the rear of the principal structure or dwelling or within the side yard, provided that any pool

¹⁴Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

within the side yard shall be at least 15 feet behind the front building line of the principal structure or dwelling or the front yard setback, whichever is greater. A swimming pool, measured from the pool wall, shall not be located less than five feet from:

- (a) The principal residence or dwelling.
 - (b) Any detached garage.
 - (c) Any property line.
 - (d) Any basement wall or cellar wall.
- (6) Design and construction requirements. No building permit to construct a new swimming pool (existing swimming pools are excluded from this section) shall be issued unless and until the following design and construction requirements are observed:
- (a) Material. The material used for lining a swimming pool shall be impervious and shall provide a tight tank with easily cleaned surfaces. Sand or dirt bottoms are prohibited if uncovered.
 - (b) Walls and bottom. All pool walls and bottoms shall be designed to withstand water pressure from within and to resist the pressure of earth or groundwater when the swimming pool is empty.
 - (c) Deck. There shall be a minimum of three feet of concrete, stone, brick or block sidewalk or other all-weather surface, including wood, completely around and abutting all in-ground swimming pools. The all-weather surface shall be designed in such a manner as to direct drainage away from the swimming pool and in such a manner as not to drain upon adjoining properties. The all-weather surface shall be designed and constructed in such a manner as to be safe from slipping.
 - (d) Steps, ladders, handholds. One or more means of egress shall be provided from the swimming pool. Treads of steps or ladders shall have slip-resistant surfaces and handrails on both sides, except that the handrails may be omitted when there are not more than four steps or when the steps extend the full width of the side or end of the swimming pool.
 - (e) Makeup water. Swimming pools shall be equipped with suitable facilities for adding makeup water as required. There shall be no physical connection between the water supply line and the swimming pool system. When the makeup water is added to the swimming pool, the inlet shall be at least six inches above the pool water surfaces.
 - (f) Recirculation. Provision shall be made for complete circulation of water throughout the swimming pool. The system shall be designed and constructed so that a turnaround at least once every twelve-hour period shall be provided. Recirculation systems shall consist of pumping

equipment, hair and lint catcher, filters, together with all necessary pipe connections to the pool inlets and outlets, facilities and pipe connections necessary for backwashing or cleaning filters.

- (g) Safety equipment. Life preservers, ropes or pole, appropriate to pool size, shall be readily available at the swimming pool site.
 - (h) Drainage system. The swimming pool and equipment shall be equipped to completely empty the water, and the discharge of water shall be disposed of in such a manner that it will not create a nuisance to an adjoining property.
- (7) Property rights. No swimming pool shall be used or maintained as to intentionally interfere with the enjoyment of the rights of others, specifically including adjoining property owners or occupants.
 - (8) Shielding lights. All lights which illuminate any swimming pool or swimming pool area shall be placed or shaded in such a manner as to eliminate glare on adjoining properties.
 - (9) Unnecessary noise. It shall be unlawful for any person to make, continue or cause to be made or continue at any swimming pool any loud, unnecessary or unusual noise which disturbs, injures or endangers the comfort, health, peace or safety of others. The use or operation of any radio, musical instrument, phonograph, recording equipment or other machine or device for producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of neighboring inhabitants of at any time with volume louder than is necessary for convenient hearing of persons at the swimming pool site shall be unlawful.
 - (10) Electrical connections. All electrical installations shall conform to the specifications of the National Electric Code. No electric wire or conductors shall cross, either overhead or underground, on any part of a swimming pool, nor shall any electric wiring be installed parallel to any pool wall closer than five feet, if underground, unless enclosed in rigid conduit or within five feet, if overhead or at such other minimum distance required by the National Electrical Code, as the same may be amended from time to time.
 - (a) All underwater lights must be watertight self-contained units with ground connections running from a waterproof junction box to a proper grounding facility or medium. All underground electric wires supplying current to said lights within a distance of five feet of the pool wall or walls shall be enclosed in rigid conduits.
 - (b) All metal fences, enclosures or railings near or adjacent to a swimming pool which might be electrically charged as a result of contact with broken overhead conductors or from any other cause shall be effectively grounded or bonded.
 - (c) All electrical work done on any swimming pool, including all auxiliary

equipment such as pumps, filters and other mechanical and electrical equipment, shall conform to the requirements of the National Electrical Code and all amendments and supplements thereto. A written certificate for a final inspection on electrical work by an approved inspection agency shall be delivered to the Code Official prior to any use of the swimming pool.¹⁵

M. **Townhouses.** In districts where permitted, all townhouses shall comply with the following:

- (1) There shall be not more than 5¹⁶ units in a row.
- (2) Lot area per dwelling unit shall not be less than the area required by the district regulations when served by both public water and sanitary sewer.
- (3) All applicable provisions of this chapter.
- (4) Each dwelling, whether sold as a fee simple, condominium or some other form of ownership, shall be required to conform to Section 266-11.M(2), above.¹⁶

N. **Automobile or gasoline service stations.** In districts where permitted, service stations shall be subject to the following safeguards and regulations:

- (1) Hereafter, no service station shall be located nearer than 1,000 feet to the lot line of any school, hospital or nursing or convalescent home.
- (2) Driveways shall be located as provided in Article X for parking, loading areas and access drives.
- (3) All driveways and service areas shall be paved with a surfacing material as approved by the municipality.
- (4) Motor vehicles shall not be permitted to be parked or to stand on sidewalk areas.
- (5) Minimum frontage, as measured at the building setback line, on an interior lot shall be not less than 125 feet and on a corner lot on a side street not less than 100 feet and the front street not less than 125 feet.
- (6) Gasoline pumps shall be set not less than 25 feet from any street line and not less than 30 feet from any residential zone boundary line.

O. **Prohibited uses.**

- (1) The primary living and sleeping quarters of dwelling units shall not be permitted in cellars.
- (2) The following uses are prohibited in all districts throughout the municipality:

¹⁵ Editor's Note: Former Article 3, Section A, Subsection 13, Paragraph k, which contained penalties specific to swimming pool violations and immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). For current penalty provisions, see § 266-98.

¹⁶ Editors Note: Amended by Ordinance 2007-7 dated July 2, 2007

- (a) The incineration, reduction or storage of garbage, offal, animals, fish or refuse, unless by the authority of or under the supervision of the municipality.
- (b) Dumps and dumping of any kind unless by the authority of or under the supervision of the municipality.
- (c) Junkyards.
- (d) Dog kennels
- (e) Race tracks for stock cars, midget cars and other motorized vehicle racing.
- (f) Raising and maintaining of livestock.¹⁷
- (g) The operation of any business which has as a substantial or a significant portion of its stock-in-trade obscene materials or which offers live entertainment appealing to the prurient interest.
- (h) Massage parlor. The operation of any massage parlor in which any of the following activities are carried on:
 - [1] The treatment of any person of the opposite sex, except upon the signed order of a licensed physician, osteopath, chiropractor, licensed massage therapist¹⁸ or registered physical therapist, which order shall be dated and shall specifically state the number of treatments, not to exceed 10. The date and hour of each treatment given and the name of the operator shall be entered on such order by the establishment where such treatments are given and shall be subject to inspection by the police. The requirements of this provision shall not apply to treatments given in the residence of a patient, the office of a licensed physician, osteopath or registered physical therapist, chiropractor or licensed massage therapist or in a regularly established and licensed hospital or sanitarium.¹⁸
 - [2] The massage of or physical contact with the sexual or genital parts of one person by any other person. Sexual or genital parts shall include the genitals, pubic area, buttocks, anus or perineum of any person or the vulva or breasts of a female.
 - [3] The failure to conceal with a fully opaque covering the sexual or genital parts of the body of any person.
- (i) Conversion apartments. [Added 5-1-1995 by Ord. No. 95-3]
- (j) Illegal uses. Any uses or activities illegal under federal, state or local laws. [Added 5-1-1995 by Ord. No. 95-3]

¹⁷Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

¹⁸Editor's Note: Amended by Ordinance 2012-1 dated May 7, 2102

- P. **Public utility facilities.** Public utility facilities shall be permitted in any district without regard to the use and area regulations; provided, however, that buildings or structures erected for these utilities shall be subject to the following regulations:
- (1) Front, side and rear yards shall be provided in accordance with the regulations of the district in which the facility is located.
 - (2) Height shall be as required by the district regulations.
 - (3) Unhoused equipment shall be enclosed with a chain link fence six feet in height.
 - (4) Housed equipment. When the equipment is totally enclosed within a building, no fence or screen planting shall be required; however, the yard areas shall be in conformity with the district in which the facility is located.
 - (5) Screen planting in residential and commercial districts. The required fence for unhoused equipment shall be surrounded by an evergreen planting as approved by the Zoning Officer.
 - (6) The external design of the building shall be in conformity with the buildings in the districts.
 - (7) Access for unhoused equipment. Where vehicular access is across the front yard, the gate shall be constructed of solid materials having not less than 50% solid in ratio to open space.
- Q. **Churches, hospitals, municipal buildings, school and other public and semipublic buildings.** Existing schools, hospitals, churches or other public buildings cannot be remodeled or converted to other uses until such plans are presented to the Borough Council together with approvals as may be necessitated by state and local law and rules and regulations of the Department of Labor and Industry, the State Department of Environmental Protection and others.
- R. **Solar** collectors and solar related equipment shall be permitted in any district.
- S. **Theaters and amusement places:**
- (1) The proposed use will be reviewed as to its relationship to and effect upon the surrounding uses regarding noise, potential traffic hazards and congestion, illumination and glare.
 - (2) The proposed use will be reviewed in relation to the development objectives established in the Penbrook Borough Comprehensive Plan.
 - (3) Ingress and egress to the site of the proposed use, circulation and movement of vehicular and pedestrian traffic, parking requirements (Article X, Off-Street Parking) and accessibility will be reviewed.
 - (4) Adequacy and availability of utility service will be reviewed.
- T. **Day-care facilities.** Day-care homes and facilities are permitted, subject to the following conditions:

- (1) Where permitted, day-care homes and facilities must hold an approved Pennsylvania Department of Public Welfare registration certification or license, as appropriate, and meet all current DPW regulations, including those standards governing adequate indoor space, accessible outdoor play space and any applicable state or local building and fire safety codes. A copy of this certification must be given to the borough to be maintained in its files.
- (2) All day-care homes and facilities shall be fully protected by smoke detectors and fire extinguishers.
- (3) Family day-care homes and group day-care homes may locate in any district subject to the standards in that particular district for a single-family residence and the following additional safeguards, whichever is more restrictive:
 - (a) Parking. In addition to the district's parking requirements, there shall be one additional off-street parking space provided for each nonresident employee and one safe off-street passenger unloading space measuring at least 10 feet by 20 feet.
 - (b) Fencing. The requisite outdoor play area shall be surrounded by a safety fence or a natural barrier.
 - (c) Hours. Outside play shall be limited to the hours between 8:00 a.m. and 8:00 p.m.
 - (d) Signs. Any sign shall comply with the standards governing signs for home occupations.
 - (e) When day care is provided in a home, the amount of floor area devoted to such purposes shall not exceed 30% of the total floor area of the dwelling and there shall be no change to the exterior of the building for the purpose of accommodating day care.
- (4) Day-care centers may be located only in the C Commercial District subject to the regulations of that zoning district and the following additional standards, whichever is more restrictive:
 - (a) Parking. There shall be one off-street parking space for each employee and one safe off-street passenger unloading space measuring at least 10 feet by 20 feet for each 10 children that the facility is licensed to accommodate.
 - (b) Off-premises play area. When an off-premises outdoor play area is utilized, it must be located within 1,000 feet and safely accessible without crossing at grade any arterial street or other hazardous area.
 - (c) Play area setback. No portion of the outside play area shall be less than 50 feet from an existing occupied residence without the owner's written consent.
 - (d) Hours. Outside play shall be limited to the hours between 8:00 a.m. and 8:00 p.m.

- (e) Signs. Any sign shall comply with district regulations for churches, schools or other similar uses.
 - (f) Concentration. No day-care center shall be established within 500 feet from another day-care center or private nursery or kindergarten.
- U. **Uses not provided for.** Whenever in any district established under this chapter a use is neither specifically permitted or denied and an application is made by a property owner to the Zoning Officer for such use, the Zoning Officer shall refer the application to the Zoning Hearing Board which shall have the authority to permit the use or deny the use. The use may be permitted if it is similar to and compatible with permitted uses in the district and in no way is in conflict with the general purpose and intent of this chapter.

§ 266-12.Height regulations.

- A. The height of any building may exceed the maximum permitted height by one foot for each additional foot by which the width of each yard exceeds the minimum yard regulation for the district in which the building is located.
- B. Height regulations shall not apply to spires, belfries, cupolas, domes not used for human occupancy, nor to chimneys, ventilators, skylights, water tanks, utility poles or towers, solar collectors and ornamental or necessary mechanical appurtenances.
- C. **For all residential uses, accessory buildings shall not exceed 14 feet in height.**
- D. No dwelling shall be hereafter erected less than one story in height.

§ 266-13.Accessory buildings.

- A. An accessory building may only be erected within one of the side yards or within the rear yard, provided that:
 - (1) Such accessory building shall be **not less than 10 feet from the rearmost portion of the main building.**
 - (2) When constructed on the side or rear lot line, the accessory building shall be located a minimum of **three** feet from such lot line.
 - (3) Where such side or rear yard is along an alley, the accessory building shall be located **not less than five feet from the alley.**
 - (4) Where such side or rear yard is adjacent to another lot, the accessory building shall be **not less than three feet from any lot line.**
 - (5) When an accessory building is erected **within the side or rear yard adjacent to a side street on a corner lot, the accessory building shall be not less than the required front yard depth from the exterior side lot line.**
 - (6) **On a corner lot in any residential district, an accessory building shall not be erected within 30 feet of the exterior side lot line (street line); provided, however, that when the main building exists on both the corner**

lot and the lot abutting the rear of the corner lot, an accessory building may be erected at the existing main building.

- B. A **carport**, open on three sides, may be erected within one of the side yards or rear yard when attached to a main building existing at the effective date of this chapter, provided that the carport shall be not less than five feet from the side or rear lot line.

§ 266-14.Buffer yards.

- A. Where a commercial use adjoins a residential district, a buffer yard of not less than 15 feet in width shall be provided along the lot lines, in addition to the yards required for the district in which it is located.
- B. All buffer yard areas shall be planted and maintained with a screen planting at least four feet in height and a minimum of five feet from any property line or right-of-way line or the buffer yard may be reduced to 10 feet in width when a solid masonry wall of at least five feet in height is used to screen a commercial use from an adjoining residential district and a minimum of 10 feet from any property line or right-of-way line.
- C. Buffer yards other than interior side buffer yards may be crossed by access roads, service drives and utility easements not more than 35 feet in width, provided that the angle of the center line of the road, drive or easement crosses the lot line and buffer yard at not less than 60°.

§ 266-15.Projections in yards.

- A. Cornices, eaves, gutters, bay windows or chimneys may project into the front, side or rear yard of a lot not more than 24 inches.
- B. Covered enclosed porches shall be considered as part of the main building and shall not project into any required yard.
- C. Components of a solar energy system may project into any side yard to the limit of the existing side building line which is closest to the property line.

§ 266-16.Obstruction to vision. ¹⁹

- A. Walls, fences, signs or other structures shall be erected or altered and hedges, trees or other plant material shall not be planted or maintained which may cause danger to traffic on a street or road by obstructing the view.
- B. On corner lots, no walls, fences, signs or other structures in excess of three feet in height shall be erected or altered and no hedge or other plant material in excess of three feet in height shall be permitted at a street intersection in a triangular formed at a line joining two points, which points shall be measured 50 feet in either direction from the point of intersection of the streets and the curblines of the intersecting streets.

¹⁹.Editor's Note: See also § 100-3, Obstruction of vision.

§ 266-17.Fences and walls.

- A. Fences and walls may be erected, altered and maintained within the side or rear yard with no set back provided that any fence or wall not exceed six (6) feet in height and may be erected, altered and maintained shall not violate any other provisions of the Borough Ordinances and fences within the front yard may be erected, altered and maintained with no set back but shall not exceed three (3) feet and shall not violate any other provisions of the Borough Ordinances.²⁰

- B. All yards used for the storage of any material needed for the operation or conduct of a manufacturing or commercial enterprise shall be enclosed by a solid wall, uniformly painted board fence or screen planting, at least six feet in height on all sides which face upon a lot in a more restricted zone.

§ 266-18.Habitable space. ²¹

The minimum habitable space of a dwelling unit hereafter erected shall be in accordance with the requirements of the Property Maintenance Code.²²

§ 266-19.Illumination.

- A. The illumination of any sign shall be arranged in such a manner that the light shall be shielded from any residential building or fall within the right-of-way of any street or highway.

- B. The illumination of the exterior grounds of commercial establishments shall be arranged in such a manner that the light source shall not enter any residential building or fall within the right-of-way of any street or highway.

§ 266-20.Performance standards.

Hereafter, all uses of land, buildings and structures or industrial processes shall be prohibited that are noxious or injurious by reason of the production or emission of dust, smoke, refuse matter, odor, gas fumes, noise, vibration or similar substances or condition; provided, however, that any uses may be permitted except those specifically prohibited in the district regulations or general provisions if adequate provisions and safeguards to protect the health, safety, morals and the general welfare of the community are established by a written agreement between the Borough Council and the property owner, subject to the securing of a permit therefor and subject to the carrying out of such provisions, restrictions and safeguards.

§ 266-21.Drainage regulations.

²⁰ Amended by Ordinance 2010-1 dated May 3, 2010

²¹ .Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

²² .Editor's Note: See Ch. 200, Property Maintenance.

A building may be erected or used and a lot may be used or occupied only when in conformity with the following regulations:

- A. Obstructions. The following shall not be placed or caused to be placed in an open drainageway: fences except two-wire fences, other structure or matter which may impede, retard or change the direction of the flow of water in open drainageway or that is placed where the flow of the water would carry the same downstream to the damage or detriment of either public or private property adjacent to said open drainageway.
- B. Installation of fill materials. Fill may be placed at and within the outer line of a drainageway when approved by the Zoning Officer and subject to the following conditions:
 - (1) Satisfactory evidence shall be submitted to the Zoning Officer indicating that the cross-sectional area of the drainageway will not be reduced.
 - (2) Satisfactory evidence shall be submitted to the Zoning Officer indicating that there will be no adverse flooding conditions created by the proposed fill.
- C. Reduction of lot area. Where the configuration of a drainageway is such that minimum lot area or width regulations cannot be reasonably met, adjacent land within other districts may be applied to meet requirements. In such cases, the largest lot area and width of the district involved shall apply. All other district regulations shall remain in force.
- D. Storm drainage plan. Stormwater shall be managed in a manner approved by the borough's engineer.

§ 266-22. Control of traffic and protection to public safety.

The application for a permit for any and all uses shall be accompanied by a site plan showing building location, service and parking areas and access to highways. Where a driveway or access road gives access to a state road or highway, approval by the Pennsylvania Department of Transportation shall be required.

§ 266-23. Windmills, windwheels and wind energy conversion systems.

Windmills, windwheels or wind energy conversion systems (WECS) shall be permitted in all districts subject to the following conditions:

- A. The structure supporting the wind rotor unit, including any necessary guideposts and supporting cables, shall be independent of any occupied structure and located a minimum distance of the tower height plus ten feet from any occupied dwelling and shall not be more than 75 feet in height.
- B. The minimum distance between the tower and any property line shall be not less than twice the height of the tower.
- C. The minimum distance between grade and the lowest point of the rotor blade shall be 20 feet.

- D. All electric lines/utility wires shall be buried underground.
- E. Any mechanical equipment associated and necessary for operation, including a building for batteries and storage cells, shall be enclosed with a six-foot fence. The supporting structure shall also be enclosed with a six-foot fence, unless the base of the tower is not climbable for a distance of 12 feet.
- F. When a building is necessary for storage cells or related mechanical equipment, the building shall not exceed 140 square feet in area nor eight feet in height and must be located at the base of the supporting structure.
- G. One windmill/windwheel/WECS shall be permitted per property.
- H. The resultant energy harnessed from the wind shall be used on the property it is located on and not used as a commercial enterprise.
- I. The supporting structure and generating unit shall be kept in good repair and sound condition. Upon abandonment of use, the supporting structure and related structures shall be dismantled and removed from the property within 60 days.
- J. The applicant shall demonstrate that any noise from the wind generating unit shall not exceed 45 dB(A), measured at the property line.
 - (1) A "decibel" shall mean a unit for measuring the relative intensity of sounds; more specifically, a unit for expressing the ratio of two amounts of acoustic signal power equal to 10 times the common logarithm of this ratio.
 - (2) "A weighted sound level" shall mean the total sound level in decibels of all sound as measured with a sound level meter with a reference pressure of 20 micro-pascals using the "A" weighted network (scale) at slow response. The unit of measurement shall be defined as "dB(A)."

§ 266-24. Radio and television antennas.

Radio and television antennas may be installed, erected and maintained within all land use zones of the borough, but only in accordance with the provisions of this section. All antennas shall be subject to the following:

- A. Approval of antennas.
 - (1) All antennas shall be subject to the review and approval of the Code Official.
 - (2) The following antennas shall be reviewed and approved by the Code Official, if in conformity with the development standards:
 - (a) All roof-mounted antennas where the boom or any active element of the antenna array is longer than 12 feet.
 - (b) All ground-mounted antennas 40 feet or less in height.
 - (3) Ground-mounted antennas, as defined in Subsection B(5) of this section, exceeding 40 feet in height are permitted if in conformity with Subsection D of this section, provided that no antenna shall exceed 70 feet.

- B. Development standards. All antennas shall be located, designed, constructed, treated and maintained in accordance with the following standards:
- (1) Antennas shall be installed and maintained in compliance with the requirements of the Building Code.²³
 - (2) Antennas which are roof-mounted shall not extend higher than 12 feet above the highest point of the roof section where mounted, except a single vertical pole antenna may extend to 20 feet above the peak of the roof. Disc antennas exceeding 36 inches in diameter shall not be permitted on the roof.
 - (3) Not more than one ground-mounted antenna exceeding 40 feet in height shall be permitted on each lot.
 - (4) Antennas shall be erected or maintained to the rear of the main building, except in those instances when the subject property is a cul-de-sac or corner lot where the side yard is larger than the rear yard, in which case the antenna may be located in the side yard. Antenna towers shall not be located in any required setback area. No portion of an antenna array shall extend beyond the property lines or into any front yard or easement areas. Guy wires shall not be anchored within any front yard or easement areas, but may be attached to the building.
 - (5) Antennas may be roof-mounted or ground-mounted, freestanding or supported by guy wires, buildings or other structures in compliance with the manufacturer's structural specifications. Ground-mounted antennas shall be any antenna with its base mounted directly in the ground, even if each antenna is supported or attached to the wall of a building. Fixed-guyed antenna towers shall be fascia-mounted or guyed according to approved standards. Wire antennas that are not self-supporting shall be supported by objects within the property lines, but not within any front yard areas.
 - (6) The antenna, including guy wires, supporting structures and accessory equipment, shall be located and designed so as to minimize the visual impact on surrounding properties and from public streets. Antennas should be screened through the addition of architectural features and/or landscaping that harmonize with the elements and characteristics of the property. The materials used in constructing the antenna shall not be unnecessarily bright, shiny, garish or reflective.
 - (7) Antennas shall meet all manufacturer's specifications. The mast or tower shall be of noncombustible and corrosive-resistant material. The miscellaneous hardware, such as brackets, turnbuckles, clips and similar-type equipment subject to rust or corrosion, shall be protected with a zinc or cadmium coating by either galvanizing or shreadizing process after forming. These finishes are selected to guard against electrolytic action due to the use of adjoining dissimilar metals.

²³.Editor's Note: See Ch. 104, Building Construction.

- (8) Whenever it is necessary to install an antenna where damage would be caused by its falling, a separate safety wire must be attached to the antenna mast or tower and secured in a direction away from the hazard. No antenna shall be in excess of a height equal to the distance from the nearest overhead electrical power lines, less five feet.
 - (9) Every antenna must be adequately grounded for protection against a direct strike of lightning with an adequate ground wire. Ground wires shall be of the type approved by the latest edition of the National Electrical Code for grounding masts and lightning arresters and shall be installed in a mechanical manner with as few bends as possible, maintaining a clearance of at least two inches from combustible materials. Lightning arresters shall be used which are approved as safe by the Underwriters' Laboratories, Inc., and both sides of the line must be adequately protected with proper arresters to remove static charges accumulated on the line. When lead-in conductors of polyethylene ribbon-type are used, lightning arresters must be installed in each conductor. When coaxial cable or shielded twin lead is used for lead-in, suitable protection may be provided without lightning arresters by grounding the exterior metal sheath.
- C. Application for approval. Prior to installing any antenna, an application shall be submitted to and approved by the borough. The application shall be accompanied by construction drawings showing the proposed method of installation, the manufacturer specifications, if any, and a sketch showing the location of the antenna, property and setback lines and all structures. In addition, applications shall be accompanied by engineering data establishing the fact that the antenna conforms to the structural requirements of the Building Code.²⁴ Such engineering data may include custom engineering calculations for each installation, the calculations and data to be submitted by a structural or civil engineer registered by the State of Pennsylvania. Such registered engineer may be employed by the manufacturer of the antenna.
- D. Development standards for ground-mounted antennas.
- (1) Where permitted, ground-mounted antennas, as defined in Subsection B(5) of this section, in the required application shall meet, in addition to all other required contents, the following:
 - (a) A site plan showing adjacent properties, possible views and all screening features.
 - (b) Affected exterior elevations and architectural features and the texture and color of all materials to be used.
 - (c) A map and list showing property owners' names and addresses, as shown on the last equalized assessment roll, within a distance of 500 feet from the boundaries of the subject property.

²⁴.Editor's Note: See Ch. 104, Building Construction.

- (d) A statement of proposed measures to mitigate radio frequency and television interference shall be included in case such interference should result from the operation of the amateur radio station.
- (2) The application will be processed in accordance with the above requirements and may be approved only if the criteria established therein are met. The antenna may be approved for any height not exceeding 70 feet. In determining the height to be permitted, the borough shall consider the horizontal and vertical dimensions and mass of the antenna, the nature of the materials and design of the antenna, the location of the antenna in relation to setback lines and adjacent properties, the presence of screening structures or landscaping and the visual impact of the antenna on adjacent properties and public rights-of-way.
- (3) The antenna shall be removed upon the termination or revocation of the permit. The permit shall terminate on the sale or transfer of ownership of the property by the applicant and shall be so conditioned; provided, however, that if the sale or transfer of ownership occurs, then upon application to the borough, the permit may be extended by the Code Official.

E. Enforcement.

- (1) All antennas shall be maintained in good condition and in accordance with all requirements of this section.
- (2) All antennas shall be subject to periodic reinspection. No addition, changes or modifications shall be made to an antenna, unless the addition, change or modification is in conformity with the Building Code.²⁵
- (3) Failure to abide by and faithfully comply with this section shall constitute grounds for the revocation of the approval or permit by the Borough Council. The remedies provided for herein shall be cumulative with all other remedies provided in this chapter and not exclusive.

ARTICLE IV
Nonconforming Buildings and Uses

§ 266-25.Regulations.

All lawful uses of land or of a building, sign or other structure existing on the effective date of this chapter may be continued, altered, restored, reconstructed, changed, sold or maintained even though such use may not conform to the use, height, area, yard and other regulations of the district in which it is located, provided that such nonconforming conditions shall comply with the following:

- A. Continuation. The Zoning Officer shall identify and register all of the premises occupied by a lawful nonconforming use existing at the effective date of this chapter and issue a certificate of nonconformance which shall be for the purpose of

²⁵.Editor's Note: See Ch. 104, Building Construction.

insuring to the owner the right to continue a nonconforming use.

B. Building permit.

- (1) Where a building permit has been issued 90 or more days prior to the effective date of this chapter and the proposed building or use does not conform to the requirement of this chapter, the proposed building or use shall be considered the same as a lawful building or use and shall be regulated by the requirements of this chapter.
- (2) Where a building permit has been issued less than 90 days prior to the effective date of this chapter and the proposed building or use does not conform to the requirements of this chapter, the proposed building or use shall be considered the same as a lawful building or use and shall be regulated by the requirements of this chapter only if at least one of the following conditions has been met prior to the effective date of this chapter:
 - (a) Construction other than excavation has been started.
 - (b) A contract for construction other than excavation has been let.

C. Alterations.

- (1) The types of alterations listed below are permitted for nonconforming uses and buildings existing on the effective date of this chapter:
 - (a) The extension of a nonconforming use of land upon a lot occupied by such use.
 - (b) The alteration of a conforming building occupied by a nonconforming use.
 - (c) The alteration of a nonconforming building occupied by a nonconforming use.
 - (d) The alteration of a nonconforming building occupied by a conforming use.
- (2) The foregoing alterations of such nonconforming buildings or use shall be subject to the following conditions:
 - (a) The alteration shall conform to the height, area, yard and coverage regulations in the district in which it is located. Where a building or structure is nonconforming as to a required side or rear yard setback, the established nonconforming setback may be continued, so long as the proposed extension or enlargement does not project further into any yard, whether side or rear yard, than the original building. [Amended 5-1-1995 by Ord. No. 95-3]
 - (b) The alteration of the building or use shall be provided with off-street parking and loading spaces as required by Article X, entitled "Off-street Parking." Compliance with this provision shall not be required where the

alterations to a single-family dwelling in the case of structural alterations do not involve more than 90% of the square footage of the existing dwelling or in the case of enlargements do not exceed 50% of the square footage of the existing dwelling, as measured cumulatively, from the effective date of the enactment of this chapter. [Amended 5-1-1995 by Ord. No. 95-3]

- (c) The alteration does not replace a conforming use.
 - (d) The alteration of the nonconforming building or use shall not be permitted to extend into vacant parcels of land adjacent to the initial parcel of land existing and occupied on the effective date of this chapter where such vacant parcels have been recorded separately or acquired following the effective date of this chapter.
 - (e) A nonconforming use may be changed to another nonconforming use of the same or more restricted classification. Whenever a nonconforming use has been changed to a more restricted classification or to a conforming use, such use shall not hereafter be changed to a use of less restricted classification.
- D. Discontinuance. If a nonconforming use of land or building ceases operations for a continuous period of more than two years, then such use of land or building shall conform to the regulations of this chapter.
- E. Nonconforming signs. Signs in existence at the effective date of this chapter or amendments thereto may be continued subject to the regulations contained in the regulations in Subsection D above and in Article XI, § 266-71.

ARTICLE V Zoning of Districts

§ 266-26. Enumeration of districts.

For the purpose of this chapter, the borough is hereby divided into districts which shall be designated as follows:

- V Village District
- R-ST Residential Single-Family Town District
- R-MT Residential Multifamily Town District
- C Commercial District

§ 266-27. Zoning Map.²⁶

The boundaries of the districts shall be as shown upon the map attached to and made a part of this chapter which shall be designated "Zoning Map." Said map and all the notations, reference and other data shown thereon are hereby incorporated by reference

²⁶.Editor's Note: The Zoning Map is included at the end of this chapter.

into this chapter as if all were fully described herein.

§ 266-28.District boundaries.

- A. The boundaries between districts are, unless otherwise indicated, either the center lines of streets, alleys, rights-of-way, lot lines or such lines extended or lines parallel thereto.
- B. Where district boundaries approximate the location of the above lines, they shall be construed to be on those lines.
- C. Where figures are shown on the Zoning Map between a street, alley, right-of-way or lot line and a district boundary line, they indicate that the district boundary line runs parallel to that line at a distance therefrom equivalent to the number of feet so indicated.²⁷
- D. Where district boundaries are not clearly fixed by the above methods, they shall be determined by the use of the scale of the Zoning Map.

§ 266-29.Interpretation of boundaries.

When a district boundary line divides a lot held in single and separate ownership at the effective date of this chapter, the regulations of either abutting district may be construed by the owner to be applicable to the portion of such lot in the other abutting district for a distance of not more than 50 feet beyond the district boundary line.

ARTICLE VI
V Village District
 [Added 3-2-1992 by Ord. No. 92-1]

§ 266-30.Intended purpose.

The purpose of this district is to provide a mixture of uses to maintain a village atmosphere in the Borough Square and surrounding area of Penbrook Borough; to preserve the residential uses; and to limit commercial and office uses to those which are compatible with the village atmosphere of the district.

§ 266-31.Permitted uses.

Permitted uses shall be as follows:

- A. Residential uses.
 - (1) Single-family detached dwelling units.
 - (2) Single-family semidetached dwelling units.
 - (3) Single-family attached dwelling units.
 - (4) Home occupations.

²⁷.Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- B. Public/semipublic uses.
 - (1) Churches and similar places of worship.
 - (2) Public or private preschool, primary and secondary educational facilities and related school uses.
 - (3) Public parks and recreation areas.
- C. Commercial uses.
 - (1) The following uses shall be permitted subject to meeting the following standards and criteria:
 - (a) Off-street parking shall be required in accordance with Article X of this chapter.
 - (b) A five-foot-wide screen planting of not less than four feet in height shall be placed in side and rear yards of commercial uses abutting a residential use.
 - (c) The number of commercial uses shall not equal more than 50% of the uses within the boundaries of the V Village District.
 - (d) Commercial uses may occupy no more than 5,000 square feet of floor area.
 - (2) Commercial uses shall be limited to the following:
 - (a) Garden supplies.
 - (b) General merchandise stores.
 - (c) Food stores.
 - (d) Apparel and accessory stores.
 - (e) Furniture and home furnishing stores.
 - (f) Restaurants.
 - (g) Bed-and-breakfast inns.
 - (h) Drugstores and proprietary stores.
 - (i) Miscellaneous shopping goods stores.
 - (3) Professional/business offices and services.
 - (a) Banking.
 - (b) Credit agencies other than banking.
 - (c) Security, commodity brokers and services.
 - (d) Insurance carriers.

- (e) Insurance agents, brokers and service.
- (f) Real estate.
- (g) Holding and other investment offices.
- (h) Personal services.
- (i) Business services.
- (j) Miscellaneous repair services (other than motor vehicle)
- (k) Health services.
- (l) Legal services.
- (m) Educational services.
- (n) Social services.
- (o) Museum and art galleries.
- (p) Veterinary services.
- (q) Nursing homes.

D. Customary accessory uses and buildings incidental to any permitted use in accordance with Article III.

§ 266-32.Height regulations.

No building shall exceed two stories or 30 feet in height.

§ 266-33.Lot width regulations.

The lot width within the V Village District shall not be less than 25 feet, as measured at the minimum building setback line.

§ 266-34.Area regulations.

The lot area shall be determined on the basis of yard requirements, coverage, parking and buffer yard requirements as contained in this chapter.

§ 266-35.Yard regulations.

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

- A. Front yard. There shall be a front building setback line determined as follows: Where buildings exist in the same block on either side of the street, the setback line of the building to be constructed shall be at least the average of all buildings constructed within the same block on both sides of the street. In measuring to determine said building line, open porches shall not be construed as part of the building. In blocks where no buildings exist on either side of the street, the building

line shall be 25 feet. In case of a corner lot, there shall be two front yards.

- B. Side yards (two); width: five feet each side of a principal residential building. In the case of a corner lot, there shall be one side yard and one rear yard. For a commercial use, the side yard setback will be 15 feet, which shall include the required five-foot screen planting when the property adjoins an existing residential use. On a lot in a V Village District held in single and separate ownership at the effective date of this chapter, with a lot width less than required for the zone district, the required side yards shall be determined by the Zoning Hearing Board upon application for a variance.
- C. Rear yard depth: 10 feet.
- D. Buffer yards shall be provided in accordance with the provision of Article III, § 266-14, entitled "Buffer yards." Parking within the buffer yard shall not be permitted.

§ 266-36.Coverage regulations.

The coverage shall be no more than 75%. At least 10% of the remaining lot area shall be covered with an approved living plant material.

§ 266-37.Off-street parking regulations.

Off-street parking shall be provided in accordance with the provisions of Article X of this chapter.

§ 266-38.Signs regulations.

Signs shall be provided in accordance with the provisions of Article XI of this chapter.

**ARTICLE VII
R-ST Residential Single-Family Town District**

§ 266-39.Applicability of regulations.

In the R-ST Residential District, the following regulations shall apply.

§ 266-40.Permitted uses.

Permitted uses shall be as follows:

- A. Single-family detached dwellings.
- B. Churches or similar places of worship, parish houses, convents.
- C. Municipal buildings, public libraries, museums and firehouses.
- D. Public and private schools, including colleges and institutions of higher education.
- E. Public parks, playgrounds and municipal recreation areas.
- F. Public utility and communications buildings and structures where operation

requirements necessitate locating within the district.

- G. Signs when erected and maintained in accordance with the provisions of Article XI appearing herein, entitled "Signs."
- H. Home occupations (§ 266-11F).
- I. Windmills, windwheels and wind energy conversion systems (§ 266-23).
- J. Radio and television antennas (§ 266-24).
- K. Family and group day-care home (§ 266-11T).
- L. Uses and buildings customarily accessory and incidental to any of the above permitted uses.
- M. Uses which are of the same general character as those listed as permitted uses and which will not be detrimental to the intended purpose of the district.

§ 266-41. Area regulations. [Amended 3-2-1992 by Ord. No. 92-1]

The lot area per dwelling unit shall be not less than 7,500 square feet.

§ 266-42. Width regulations.

For a dwelling, the lot width at the required front building line shall be not less than 50 feet.

§ 266-43. Yard regulations. [Amended 1-11-1995 by Ord. No. 95-1]

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

- A. Front yard depth. There shall be a front setback line determined as follows: Where buildings exist in the same block on either side of the street, the setback line of the building to be constructed shall be at least the average of all buildings constructed within the same block on both sides of the street. In measuring to determine said building line, open porches shall not be construed as part of the building. In blocks where no buildings exist on either side of the street, the building line shall be 25 feet. In case of a corner lot, there shall be two front yards.
- B. Side yards. There shall be two sides with a total width of not less than 15 feet, except that for each foot a lot existing at the time of enactment of this chapter is less than 50 feet in width, the total width of two side yards may be reduced by nine inches to a total width of not less than 12 feet. The width of the narrowest side yard shall not be less than 1/3 the total width of both side yards. In case of a corner lot, there shall be two side yards.
- C. Rear yards. There shall be a rear yard, the depth of which shall be at least 20 feet from the rear lot line to the rear line of the main building, provided that if, at the time this chapter becomes effective, any lot has been laid out with a depth of less than 125 feet, the depth of the rear yard shall be at least 10 feet.

§ 266-44.Coverage regulations.

The coverage shall be no more than 70%.

§ 266-45.Off-street parking regulations.

Parking shall be provided in accordance with the provisions of Article X, entitled "Off-Street Parking."

ARTICLE VIII
R-MT Residential Multifamily Town District

§ 266-46.Applicability of regulations.

In the R-MT Residential District, the following regulations shall apply.

§ 266-47.Permitted uses.

Permitted uses shall be as follows:

- A. Single-family detached dwellings.
- B. Single-family semidetached dwellings.
- C. Single-family attached dwelling (row houses, townhouses, quadruplex houses).
- D. Two-family detached dwellings (duplex dwellings).
- E. Two-family semidetached dwellings (double duplex dwellings).
- F. Garden apartments (see Article III, § 266-11D).
- G. Apartment dwellings when the building is constructed on the basis of a floor ratio of not more than 1.3.
- H. ²⁸Churches or similar places of worship, parish houses, convents (See Article III, § 266-11Q).
- I. Private garage.
- J. Municipal buildings, public libraries, museums and firehouses (see Article III, § 266-11K).
- K. Public and private schools, including colleges and institutions of higher education (see Article III, § 266-11Q).
- L. Public parks, playgrounds and municipal recreation areas.
- M. Public utility and communications buildings and structures where operation requirements necessitate locating within the district (see Article III, § 266-11P).
- N. Signs when erected and maintained in accordance with the provisions of Article XI

²⁸.Editor's Note: Former Subsection A8, Conversion apartments, which immediately preceded this subsection, was deleted 5-1-1995 by Ord. No. 95-3, which ordinance also renumbered former Subsections A9 through A23 as A8 through A22.

appearing herein, entitled "Signs."

- O. Uses and buildings customarily accessory and clearly incidental to any of the above permitted uses.
- P. Uses which are of the same general character as those listed as permitted uses and will not be detrimental to the intended purpose of the district.
- Q. Clubs, lodges and fraternal organizations, except B.Y.O.B. clubs (§ 266-11A). [Amended 2-6-1992 by Ord. No. 92-2]
- R. Home occupations (§ 266-11F).
- S. Medical and dental clinical buildings (§ 266-11G).
- T. Mobile home park (§ 266-11I).
- U. Windmills, windwheels and wind energy conversion systems (§ 266-23).
- V. Family and group day-care home.

§ 266-48.Height regulations.

The height of a building shall be not greater than 40 feet. The height of a dwelling shall be not less than one story.

§ 266-49.Area, width and coverage regulations. [Amended 3-2-1992 by Ord. No. 92-1]

- A. The lot area per dwelling unit and lot width at the required front building line shall be not less and the coverage shall be no greater than indicated below:

Dwelling Type	Lot Area per Dwelling Unit (square feet)	Lot Width Interior (feet)	Corner (feet)
Single-family detached	5,000	35	50
Single-family semidetached	2,250	15	30
Single-family attached	2,7001	15	38
Two-family detached	2,250	35	50
Two-family semidetached	2,250	15	30
Garden apartments	2,250	--	--
Apartments	1,000	--	--
Conversion apartments	2,250	--	--

NOTES:

1 The lot area for corner lots abutting a street shall be 3,000 square feet to permit the fifteen-foot side yard required under § 266-51B below.

- B. Area requirements for nonresidential lots shall be determined through compliance with yard, coverage and off-street parking requirements. [Added 1-11-1995 by Ord.

No. 95-1]

§ 266-50. Residential yard regulations.

Each residential unit shall have front, side and rear yards of not less than the depth or width indicated below.

- A. There shall be a front setback line determined as follows: Where buildings exist in the same block on either side of the street, the setback line of the buildings to be constructed shall be at least the average of all buildings constructed within the same block on both sides of the street. In measuring to determine said building line, open porches shall not be construed as part of the building. In blocks where no buildings exist on either side of the street, the building line shall be 25 feet unless a greater distance is required as a matter of deed restrictions or recorded plans. In the case of a corner lot, there shall be two front yards.
- B. Side yards, five feet each, shall be as required for all categories except for apartment dwellings or attached dwellings on interior lots. Exterior lots of attached dwellings will be required to have a fifteen-foot setback. On corner lots, there shall be two side yards.
- C. Rear yard depth shall be 20 feet for all categories except apartment dwellings.
- D. For apartment dwellings of one or two stories, there shall be a front yard, two side yards and a rear yard each of not less than 20 feet. For each story over two, five feet of width or depth shall be added to each yard for each additional story height.

§ 266-51. Nonresidential yard regulations. [Added 1-11-1995 by Ord. No. 95-1]

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

- A. Front yard. There shall be a front setback line determined as follows: Where buildings exist in the same block on either side of the street, the setback line of the buildings to be constructed shall be at least the average of all buildings constructed within the same block on both sides of the street. In measuring to determine said building line, open porches shall not be construed as part of the building. In blocks where no buildings exist on either side of the street, the building line shall be 25 feet unless a greater distance is required as a matter of deed restrictions or recorded plans. In the case of a corner lot, there shall be two front yards.
- B. Side yards. There shall be two sides with a total width of not less than 15 feet, except that for each foot a lot existing at the time of enactment of this chapter is less than 50 feet in width, the total width of two side yards may be reduced by nine inches to a total width of not less than 12 feet. The width of the narrowest side yard shall not be less than 1/3 the total width of both side yards. In case of a corner lot, there shall be two side yards.
- C. Rear yard depth: 20 feet shall be required.

§ 266-52.Coverage regulations.

The coverage shall be no more than 75%. At least 10% of the remaining lot area shall be covered with approved living plant material.

§ 266-53.Off-street parking regulations.

Parking shall be provided in accordance with the provision of Article X, entitled "Off-Street Parking."

ARTICLE IX
C Commercial District

§ 266-54.Applicability of regulations.

In the C Commercial District, the following regulations shall apply.

§ 266-55.Permitted uses.

A. Permitted uses shall be as follows:

- (1) All uses permitted in any residential district.
- (2) Automobile service stations.
- (3) Auto body shops, painting, upholstery, reconditioning, vehicle repair or overhauling.
- (4) Banks, business and professional offices.
- (5) Bottling works and bookbinding.
- (6) Carpenter, cabinet making, furniture repair and upholstery, electrician, metal working, tinsmith, plumbing, gas, steam, hot water fitting shops.
- (7) Electric and telephone public utility transmission and distribution facilities, including substations, water pumping stations and reservoirs.
- (8) Laboratories and lithographing.
- (9) Laundries, cleaning, dyeing, carpet and rug cleaning.
- (10) The manufacture, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, film, fur, glass, hair, leather, paper, plastics, precious or semiprecious metals or stones, shell, textiles, wood, yarns and paint not employing a boiling process.
- (11) The manufacturing of pottery and figurines or other similar ceramic products, using only clay and kilns fired only by electricity.
- (12) Mortuary and undertaking establishments.
- (13) Motels, hotels, boardinghouses and lodges.

- (14) Motor vehicle sales agency used for sale of vehicles, farm or construction equipment from an open lot, public garage and motor vehicle repair shop and gas service station not used for sale of vehicles, farm or construction equipment from an open lot.
 - (15) Motor vehicle parking lot not used for sale of vehicles, farm or construction equipment.
 - (16) Municipal buildings or uses.
 - (17) Newspaper or job printing.
 - (18) Nurseries and greenhouses.
 - (19) Personal service shops including barbers, beauty parlors, tailors, shoe repair and dry cleaning.
 - (20) Private schools conducted for gain or profit, including a dancing or music school or studio.
 - (21) Railway or bus passenger stations, telegraph offices and express offices.
 - (22) Restaurants, tearooms, cafes and other places serving food or beverages.
 - (23) Stores for the retailing of food, drugs, confectionery, hardware, bakery products, clothing, household appliances, flowers and house plants, furniture.
 - (24) Wholesale business and warehouses.
 - (25) Business identification signs when erected and maintained in accordance with the provisions of Article XI appearing herein, entitled "Signs".
 - (26) Storage facilities.
 - (27) Theaters (§ 266-11S).
 - (28) Amusement place (§ 266-11S).
 - (29) Windmills, windwheels and wind energy conversion systems (§ 266-23).
 - (30) Radio and television antennas (§ 266-24).
 - (31) Family and group day-care home.
 - (32) Day-care center.
 - (33) Other uses similar to those enumerated above.
 - (34) Accessory buildings and uses clearly incidental to the above uses.
 - (35) B.Y.O.B. clubs as defined in this chapter. [Added 2-6-1992 by Ord. No. 92-2]
- B. The above-specified stores, shops and business shall be commercial establishments exclusively and shall be permitted only under the following conditions:
- (1) Such stores, shops or business, except those permitted in Subsection A(2), (7),

(14), (15), (18), (24), (28), (29), (30), (31) and (32) above, shall be conducted within an enclosed building.

- (2) Greenhouse heating plant, coal fired, shall not be operated within 100 feet of any residential district boundary. When natural gas or fuel oil are used, the distance may be reduced to 50 feet.
- (3) The selling of products raised or grown on the premises shall be permitted, provided that all temporary stands or shelters not conforming to Building Code standards used for such sales shall be removed during that period when not in use for the display of or sale of products.
- (4) The above uses are permitted only on the condition that they are not obnoxious or offensive by reason of the emission of odor, dust, smoke, noise, gas, vibration, illumination, refuse matter or water-carried waste.
- (5) B.Y.O.B. clubs shall not be operated within 300 feet of any residence, school, hospital, nursing or convalescent homes, church or similar entity, public park or recreation areas or public swimming pools. [Added 2-6-1992 by Ord. No. 92-2]

§ 266-56.Height regulations.

The height of a building shall be not greater than 50 feet, except for apartments, in which case the floor area ratio shall control. The height of a dwelling shall be not less than one story.

§ 266-57.Area regulations.

The lot shall be determined on the basis of yard requirements, coverage, parking and buffer yard requirements contained in this article and chapter.

§ 266-58.Yard regulations. [Amended 1-11-1995 by Ord. No. 95-1]

- A. Each lot shall have front, side and rear yards of not less than the depth or width indicated below:
 - (1) Front yard depth. There shall be a front setback line determined as follows: Where buildings exist in the same block on either side of the street, the setback line of the building to be constructed shall be at least the average of all buildings constructed within the same block on both sides of the street. In measuring to determine said building line, open porches shall not be construed as part of the building. In blocks where no buildings exist on either side of the street, the building line shall be 25 feet. In case of a corner lot, there shall be two front yards.
 - (2) Side yards (two); width: 10 feet each side of a principal building. In the case of a corner lot, there shall be two side yards. On a lot in a commercial district held in single and separate ownership at the effective date of this chapter, with a lot width less than required for the zone district, the required side yards shall

be determined by the Zoning Hearing Board upon application for a variance.

- (3) Rear yard depth: 10 feet. Buffer yards shall be provided in accordance with the provision of Article III, § 266-14 appearing herein, entitled "Buffer yards."
- B. No portion of a motor vehicle service station or any of its equipment shall be placed closer to the street than 15 feet. However, no fuel pumps will be nearer than 25 feet from any street right-of-way line and not less than 30 feet from any residential zone boundary line.

§ 266-59.Coverage regulations. [Added 3-2-1992 by Ord. No. 92-1]

The coverage shall be no more than 70%. At least 15% of the remaining lot area shall be covered with an approved living plant material.

§ 266-60.Off-street parking regulations.

Parking shall be provided in accordance with the provisions of Article X, entitled "Off-Street Parking."

ARTICLE X
Off-Street Parking

§ 266-61.General parking regulations.

- A. Off-street parking facilities shall be provided to lessen congestion in the streets. The facilities required herein shall be available to patrons throughout the hours of operation of the particular business or use for which such facilities are provided. As used herein, the term "parking space" includes either covered garage space or uncovered parking space located off the public right-of-way.
- B. Outdoor parking space shall be deemed to be part of the open space of the lot on which it is located.
- C. A garage or carport may be located wholly or partly inside the walls of the principal buildings or attached to the outer walls. If separated from the principal building, the garage shall conform to all accessory or building requirements. The garage may be constructed under a yard, provided that the level of such yard shall conform to the general level of the other yards on the lot. The space above an underground garage shall be deemed to be part of the open space of the lot on which it is located.
- D. All commercial, public and semipublic uses shall provide a minimum of one handicapped parking space or 5% of the parking spaces required, whichever is greater, the design to be approved by the Borough Engineer.

§ 266-62.Facilities required.

Any of the following buildings hereafter erected or enlarged and any building hereafter converted into one of the following buildings and any open area hereafter used for commercial purposes shall be provided with not less than minimum parking spaces as set forth below.

Off-Street Parking Space Requirements

Uses	Required Parking Spaces
Automobile wash	5 for each washing stall
Automobile sales	1 for each 400 square feet of floor area
Banks or professional offices, service garages	1 for each 200 square feet of floor area
Bowling alleys	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 Editor's Note: Former entry 6a, Conversion Apartments, which immediately followed this entry, was deleted 5-1-1995 by Ord. No. 95-3.	1 for each 200 square feet of floor area
Dance halls, swimming pools, roller rinks, clubs, lodges and other similar places and other commercial buildings	1 for each 200 square feet of floor area or of water area in swimming pool
Food markets and convenience stores	1 for each 200 square feet of floor area
Funeral homes, mortuaries	5 for each parlor
Furniture or appliance stores	1 for each 200 square feet of floor area
Hospitals, nursing and convalescing homes	1 for each 3 beds, plus 1 for each 2 employees in the maximum working shift
Hotels, motels, tourist houses, boarding and lodging houses	1 for each guest room, plus 1 for each 2 employees in the maximum work shift
Research or testing laboratories, bottling plants	1 for each 1,000 square feet of floor area, plus 1 for each 2 employees in the maximum working shift. The total parking area shall not be less than 25% of the building floor area.
Medical and dental offices	5 for each practitioner
Multiple dwellings [Amended 5-1-1995 by Ord. No. 95-3]	2.5 per dwelling unit
Restaurants	1 for each 2.5 seats
Retail stores and shops	1 for each 200 square feet of floor area
Rooming houses	1 for each 1 bedroom
Service stations	2 for each service bay

Single-family and two-family dwellings	2.5 per dwelling unit ²⁹
Theaters and amusement places	1 for each 3 seats or 1 for each 60 square feet where seats are not used
Auditoriums, assembly halls	1 for each 3.5 seats
Trailer or monument sales, auctions	1 for each 2,500 square feet of total lot area
Wholesale establishments or warehouse	1 for each 2 employees on maximum shift. The total parking area shall not be less than 25% of the building floor area.

§ 266-63. Location of parking space.

Parking spaces for multiple dwelling buildings and commercial uses shall be readily accessible to and within a reasonable distance from the buildings served thereby. Such spaces shall conform to the following regulations:

- A. The required parking spaces shall be located within 600 feet of the principle building or open space in question.
- B. Such spaces shall be in the same ownership as the principle use to which they are accessory and shall be subject to deed restrictions acceptable to the Zoning Hearing Board, binding the owner and his heirs or assigns to maintain the required number of parking spaces throughout the life of the principle use.
- C. Joint Parking Facilities.³⁰

Where the owner of a business in the Village District is unable to fully comply with the requirements of Sections 266-63 (A) and (B), above, an application for Joint Parking Facilities may be made to the Zoning Hearing Board, subject to the following conditions:

1. The proposed Joint Parking Facilities shall be no further than 600 feet from the primary entrance of the business and shall not alter the general character of the neighborhood nor impose any hardship on an abutting residential district.
2. The applicant for Joint Parking Facilities shall demonstrate to the Board that the proposed users of the parking facility will be using it at different periods of the day or different days of the week. Any application shall include a drawing, to scale, showing the location of each use, the location of the parking area to be considered, and the primary entrance to each use. Each drawing shall show the actual location of all parking spaces to be included in the agreement and their width and depth within the parking area. A reduction may be granted for the total number of parking spaces needed, requiring only the number of spaces needed based on the one use of

²⁹ Editor's Note: Amended by Ordinance 2007-7 dated July 2, 2007

³⁰ Editor's Note: Amended by Ordinance 2012-1 dated May 7, 2102

the facility requiring the most spaces. The Zoning Hearing Board may impose other conditions under which any agreement is approved.

3. An agreement or amendment to an agreement for the joint use of a parking facility shall be recorded as a deed restriction, irrevocable license, easement or other recordable document in a form satisfactory to the Solicitor of the Council of the Borough of Penbrook, and shall be filed in the Dauphin County Courthouse in the chain of title of the land to be burdened in perpetuity or for a period of years to extend throughout the life of the use requiring the maintenance of the required number of spaces. Any agreement, amendment or change to an agreement shall be provided to the Borough Secretary within 30 days after approval by the Board.

4. Wherever there is a change of use or ownership of the property which is encumbered by a Joint Parking Facility Agreement, the change shall be presented to the Board within 30 days of the date of the change, for their approval.

5. Any proposed change in the total number parking spaces available, the design of the parking area, or the conditions under which the Joint Parking Facility was originally granted shall be presented to the Board for their approval at least 60 prior to days of the date of the change.

6. Where the Penbrook Borough Zoning Hearing Board does not approve the application for a Joint Parking Facility Agreement or any changes thereto, the applicant shall be required to comply with any current agreement, or if no agreement exists, with the requirements of this chapter.

7. Where an applicant can demonstrate that an existing Joint Parking Facility Agreement is no longer required, or where the change of use of the property no longer requires such agreement, the applicant shall apply to the Board, within 30 days of the change, to have such agreement withdrawn. Any withdrawal, if permitted by the Board, shall be in writing and shall be recorded by the Dauphin County Recorder of Deeds.

8. The required number of handicap parking spaces, specified elsewhere in this Chapter, shall not be reduced as a result of the approval of a Joint Parking Facility Agreement.”

[9. The Joint Parking Facility Agreement shall conform to Appendix A to this ordinance.](#)

§ 266-64.Design standards.

The minimum dimensions of parking facilities to be provided shall be as follows:

A. In all districts parking spaces per vehicle shall not be less than nine and one-half

feet in width nor less than nineteen feet in length.³¹

- B. In all districts except for single-family dwellings, there shall be no parking between the building line and the edge of the paved cartway.
- C. Parking lot dimensions shall be no less than those listed in the following table:

Angle of Parking	Parking Bay Width (feet)	Depth From Curb ¹ (feet)	Aisle Width	
			One-Way (feet)	Two-Way (feet)
90°	10	20	24	24
60°	10	22	18	20
45°	10	21	15	20

NOTES:

¹Depth from curb is the perpendicular measurement from curb or edge of the parking lot toward the interior portion of the lot to be occupied by the parked vehicles and not including any part of the drive.

- D. All dead-end parking lots shall be designed to provide sufficient backup area for the end stalls of the parking area.
- E. Parking areas shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without requiring the moving of other motor vehicles.
- F. The width of entrance and exit drives shall be a minimum of 12 feet for one-way use only and a minimum of 20 feet for two-way use except where ninety-degree parking is used, in which case the minimum shall be not less than 24 feet and a maximum of 24 feet at the edge of the paved cartway.
- G. Setback for parking areas shall be provided as follows:
- (1) All parking spaces and access drives shall be at least six feet from any multiple dwelling building or commercial building on the lot.
 - (2) All parking spaces and access drives shall be at least five feet from any exterior lot line, except where buffer yards are required, in which case such parking spaces and access drives may not encroach on the buffer yard area.
 - (3) Except at entrance and exit drives, parking areas shall be physically separated from any public and/or private streets by a minimum five-foot planting strip. In no case shall parking areas be designed to require or encourage cars to back into a public or private street in order to leave the parking areas.

³¹ Editor's Note: Amended by Ordinance 2012-1 dated May 7, 2102

§ 266-65.Drainage, surfacing and maintenance standards.

- A. The area of the parking lot, including driveways, shall be graded, surfaced with asphalt or other suitable material and drained to the satisfaction of the Municipal Engineer to the extent necessary to prevent dust, erosion or excessive water flow across streets of adjoining property.
- B. Parking areas shall be kept clean and free from rubbish and debris.

§ 266-66.Lighting.

Any lighting used to illuminate off-street parking or loading areas shall be shielded from any residential district beyond the property line.

§ 266-67.Loading and unloading space.

In addition to the off-street parking space required above, all commercial establishments, hospitals or sanitariums and other similar uses shall provide adequate off-street area for loading and unloading of supplies to and from vehicles.

ARTICLE XI
Signs

§ 266-68.Erection and maintenance.

Signs may be erected and maintained only when in compliance with the provisions of this chapter and all other ordinances and regulations relating to the erection, alteration or maintenance of signs and similar devices.

§ 266-69.V Village, R-ST and R-MT Districts.

- A. The following types of signs and no other shall be permitted in residential districts:
 - (1) Signs advertising the sale or rental of the premises upon which they are erected by the owner or broker or any other person interested in the sale or rental of such premises may be erected and maintained, provided that:
 - (a) The area of one side of the sign is not in excess of six square feet.
 - (b) Not more than one sign is placed upon any property in single and separate ownership, unless such property fronts upon more than one street, in which event one such sign may be erected on each frontage.
 - (c) Signs shall be removed within seven days of final sale or rental.
 - (2) Signs advertising the sale or development of the premises upon which they are erected, when erected in connection with the development of the premises by a builder, contractor, developer or other person interested in such sale or development, may be erected and maintained, provided that:
 - (a) The area of one side of any sign is not in excess of 20 square feet.

- (b) Not more than one sign is placed upon any property in single and separate ownership, unless such property fronts upon more than one street, in which event one such sign may be erected on each frontage.
 - (c) After completion of the development, sign(s) shall be removed at the Zoning Officer's discretion.
- (3) Signs indicating the location and direction of premises available for or in process of development, but not erected upon such premises and having inscribed thereon the name of the owner, developer, builder or agent, may be erected and maintained, provided that:
 - (a) The area of one side of any such sign is not in excess of six square feet and not in excess of four feet in length.
 - (b) Not more than one such sign is erected on each 500 feet of street frontage, with a maximum of five such signs.
- (4) Signs bearing the word "sold" or the word "rented," with the name of the person effecting the sale or rental, provided that the conditions in Subsection A(1)(a) hereof are complied with.
- (5) Signs of mechanics, painters and other artisans during the period such persons are performing work on the premises on which such signs are erected, provided that:
 - (a) The area of one side of any such sign is not in excess of 12 square feet.
 - (b) Such signs are removed promptly upon completion of the work.
- (6) Signs indicating the private nature of a driveway or trespassing signs, provided that the area of one side of any such sign shall not exceed two square feet.
- (7) Signs identifying schools, churches, libraries or other institutions of a similar nature, provided that:
 - (a) The area of one side of any such sign is not in excess of 30 square feet.
 - (b) Not more than one sign is placed on property in single and separate ownership, unless such property fronts upon more than one street, in which event one such sign may be erected on each frontage.
 - (c) In addition, one directory sign per property, not to exceed 20 square feet, may be placed on the property.
- (8) Identification signs are permitted for home occupations located in residential districts, provided that:
 - (a) Such signs shall be placed only on the property for which the home occupation has been authorized.
 - (b) The area of one side on any such sign shall not exceed two square foot.

- (c) Not more than one such sign shall be placed on any property.
 - (d) Such signs may be illuminated if such lighting is shielded or indirect; however, neon signs shall not be permitted.
 - (e) Advertising statements appearing on the sign may contain a brief description of the services offered and shall not contain specific product brand names or trademarks.
- (9) Business identification signs shall be permitted as provided below:
- (a) One wall sign to a property, provided that it is attached to the wall of a building and projects horizontally not more than 12 inches therefrom and occupies not more than 20% of the total area of the front of the principal building. It shall not project above the roof ridge line.
 - (b) In no case shall a sign project out over a sidewalk.
 - (c) One projecting sign, provided that it shall not project beyond a vertical plane five feet inside the lot from the street line, with a minimum height of 10 feet
 - (d) One ground or pole sign not to exceed 100 square feet in area. It shall not extend beyond a vertical plane five feet inside the lot from the street line and shall not exceed a height of 35 feet.
- (10) Wall business signs are permitted, provided that:
- (a) The total area of all wall signs, including business identification signs, for each establishment shall not exceed two square feet for each foot of length of the front building wall or length of that portion of such wall devoted to such establishment.
 - (b) Signs painted on or affixed to the inside or outside of windows shall be included in this computation, if their combined area exceeds 25% of the area of the window which they occupy.
 - (c) In no case, however, may the total area of wall signs, excluding business identification signs, exceed 15% of the area of the wall (including windows and door area) to which they are attached.
- (11) Ground or pole business signs are permitted, provided that:
- (a) Only one such sign shall be permitted on each property, with the exception of those establishments having walls fronting on two or more streets in which case the sign area for each street may be computed separately.
 - (b) The area of any such sign shall not exceed one square foot for each three feet of lot frontage or 24 square feet, whichever is smaller.
 - (c) The maximum height of a freestanding ground business sign shall not exceed 12 feet, but in no case shall it exceed the height of the roof ridge

line.

- (12) Nonilluminated, indirectly illuminated or directly illuminated business signs are permitted, provided that they create no objectionable glare or illumination on adjacent uses.
- (13) On-premises and/or off-premises signs necessary for the direction, regulation and control of traffic; street name signs; legal notices; and other official signs which are similarly authorized or erected by a duly constituted governmental body. Such signs may be illuminated only as necessary or customary for traffic control or safety.
- (14) Public utility signs required in connection with the identification, operation or protection of public utility, provided that the area of one side of any such sign shall not exceed eight square feet.
- (15) Signs indicating direction may be erected along streets to direct vehicles or pedestrians to premises or businesses not located on such streets, but the access to which is from such streets. The following regulations shall apply:
 - (a) Directional signs shall be ground signs with a maximum area of six square feet per side.
 - (b) The content of the directional sign shall be limited to the name of the establishment and direction and distance information.
 - (c) Directional signs shall not be located more than 500 feet from an entrance or other street leading to the advertiser and shall be located in advance of such street or entrance and on the same side of the road as the advertiser's premises.
 - (d) Written permission from the landowner must be obtained before a directional sign can be erected on private property.
- (16) Restrictions on height of signs.
 - (a) Freestanding ground signs shall not exceed eight feet in height.
 - (b) Wall signs or portions of such signs shall not be located above the ceiling of the ground floor of any building or more than 12 feet above the average upper surface of the official street grade, whichever is less.
- (17) One non-commercial sign consistent with other regulation herein as to size, height, illumination and placement, up to 16 square feet which expresses opinion or political view or belief is permitted.³²

§ 266-70.Commercial Districts.

The following types of signs and no other, shall be permitted in the C Commercial

³² Added by Ordinance 2010-2 dated May 3,2010

District:

- A. All signs permitted in the residential districts at the standards prescribed therein, except as otherwise provided in this section.
- B. Business identification signs shall be permitted as provided below:
 - (1) One wall sign to a property, provided that it is attached to the wall of a building and projects horizontally not more than 12 inches therefrom and occupies not more than 20% of the total area of the front of the principal building. It shall not project above the roof ridge line.
 - (2) In no case shall a sign project out over a sidewalk.
 - (3) One projecting sign, provided that it shall not project beyond a vertical plane five feet inside the lot from the street line, with a minimum height of 10 feet.
 - (4) One ground or pole sign not to exceed 100 square feet in area. It shall not extend beyond a vertical plane five feet inside the lot from the street line and shall not exceed a height of 35 feet.
- C. Wall business signs are permitted, provided that:
 - (1) The total area of all wall signs, including business identification signs for each establishment, shall not exceed two square feet for each foot of length of the front building wall or length of that portion of such wall devoted to such establishment.
 - (2) Signs painted on or affixed to the inside or outside of windows shall be included in this computation, if their combined area exceeds 25% of the area of the window which they occupy.
 - (3) In no case, however, may the total area of wall signs, excluding business identification signs, exceed 15% of the area of the wall (including windows and door area) to which they are attached.
- D. Ground or pole business signs are permitted, provided that:
 - (1) Only one such sign shall be permitted on each property, with the exception of those establishments having walls fronting on two or more streets in which case the sign area for each street may be computed separately.
 - (2) The area of any such sign shall not exceed one square foot for each three feet of lot frontage or 24 square feet, whichever is smaller.
 - (3) The maximum height of freestanding ground business signs shall not exceed 12 feet, but in no case shall it exceed the height of the roof ridge line.
- E. Nonilluminated, indirectly illuminated or directly illuminated business signs are permitted, provided that they create no objectionable glare or illumination on adjacent uses.
- F. Only those off-premises signs permitted in the residential districts at the standards

prescribed therein shall be permitted.

§ 266-71. Billboards (off-premises advertising signs).

Billboards or off-premises advertising sign structures, including poster panels, bulletins and the like, may be erected and maintained in the C Commercial District subject to the following regulations:

- A. Advertising sign structures shall be spaced at intervals of not less than 1,000 feet along the same side of any street or highway. No such structure shall contain more than two advertising sign facings.
- B. Advertising sign structures shall not exceed a total of 100 square feet in surface area.
- C. No advertising sign shall be permitted to be erected within 100 feet of an adjoining residential district if visible from and designed to face into such district.

§ 266-72. Special signs.

Special signs shall be allowed in any district subject to the following:

- A. Temporary signs advertising home garage sales, yard sales and the like, as differentiated from signs advertising established commercial enterprises, may be erected in any zoning district subject to the following provisions:
 - (1) The area of one side of any such sign shall not exceed four square feet.
 - (2) Only one such sign may be erected on any one piece of property, unless such property fronts on two streets, in which case one sign is authorized on each street frontage.
 - (3) The sign shall be installed no earlier than one week prior to the sale and shall be removed within one day after the activity.
- B. Temporary signs advertising public auctions of sale, as differentiated from signs advertising established commercial enterprises, may be erected in any zoning district subject to the following provisions:
 - (1) Such signs shall be subject to the same provisions as in Subsection A above.
 - (2) Such signs may be erected no earlier than one month prior to the date of the sale and shall be removed within one day after the sale or auction.
- C. Temporary signs advertising nonprofit, charitable and similar events may be erected in any zoning district subject to the following provisions:
 - (1) The area of one side of any such sign shall not exceed 16 square feet.
 - (2) Such signs may be erected no earlier than one month prior to the date of the event and shall be removed within one day after the event.
- D. Signs advertising nonprofit, charitable and similar organizations may be erected in

any zoning district, provided that they do not exceed six square feet.³³

- E. Holiday decorations displayed for recognized holidays shall be exempted from the provisions of this chapter, except as they may cause glare, interfere with traffic safety or in any other way become a public safety hazard.
- F. Signs, including advertising signs, of no larger than 32 square feet shall be allowed when attached to the inside of an outfield fence at a borough baseball field. Such signs shall be maintained by the organization responsible for the maintenance of the baseball field under a written contract with the advertiser. The Borough Council reserves the right to review the contract and approve the design of the sign. [Added 3-2-1992 by Ord. No. 92-1]

§ 266-73. General regulations.

- A. Computation of sign area.
 - (1) The area of a sign shall be construed to include all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing incidental to the display itself.
 - (2) Where the sign consists of individual letters or symbols attached to a building, wall or window, the area shall be considered to be that of the smallest rectangle or other regular geometric shape which encompasses all of the letters and symbols.
 - (3) In computing square foot area of a double-faced sign, only one side shall be considered, provided that both faces are identical. If the interior angle formed by the two faces of the double-faced sign is greater than 45°, then both sides of such sign shall be considered in calculating the sign area.
- B. Signs must be constructed of durable materials, maintained in good condition and not allowed to become dilapidated.
- C. No signs will be permitted to project over a public cartway.
- D. Signs projecting beyond the property lines shall be not less than 10 feet above public right-of-way areas. Ground signs shall not be permitted between any portion of a public sidewalk and the curbline.
- E. Signs shall not project above the height limit permitted in any district in which they are located.
- F. All signs erected within the right-of-way of a state highway shall be in accordance with the regulations of the Pennsylvania Department of Transportation.
- G. A permit shall be required for the erection, alteration or reconstruction of billboards or advertising sign boards, including poster panels, bulletins and the like.

³³ Section 266-72(E) was deleted by Ordinance 2010-1 Dated May 3, 2010. Subsequent paragraphs have been renumbered.

- H. All signs shall be removed when the circumstances leading to their erection no longer applies.
- I. Any sign lawfully existing at the time of the passage of this chapter that does not conform with the regulations of the district in which such sign is located shall be considered nonconforming and may continue subject to the following provisions:
 - (1) Signs which are nonconforming by reason of their absolute prohibition shall be removed within five years following enactment of this chapter or from any other date of the establishment of their nonconformity.
 - (2) Signs which are nonconforming by reason of dimensions may continue in their present location until replacement or rebuilding becomes necessary, at which time a zoning permit will be required and the sign brought into conformity with this chapter.

§ 266-74. Signs prohibited in all districts.

The following signs shall not be permitted, erected, constructed or maintained in any zoning district, notwithstanding anything contained in this part or elsewhere. Such signs which are prohibited shall be removed or brought into conformity with the provisions of this article within three years after this chapter is enacted.

- A. Signs which incorporate in any manner any flashing or moving illumination or with illumination which varies in intensity or color and signs which have any visible revolving parts or visible mechanical movement of any description or other apparent visible movement achieved by electrical pulsation or by action of normal wind currents. Hanging signs which simply swing in the wind and clock, time or temperature signs and barber poles shall not be considered as a prohibited sign as long as they comply with the other provisions of this chapter.
- B. Light sources which cast light on signs shall be shielded by opaque material so that the bulbs, floodlights or tubes are not visible off the property on which the signs are located.
- C. Signs advertising activities that are illegal under federal, state or local laws, regulations or ordinances as applied to the location of a particular sign or the location of such activities.
- D. Signs which by reason of size, location, movement, content, coloring or manner of illumination obstruct the vision of drivers either when leaving or entering a public street from another street or driveway and/or obstruct or detract from the visibility or effectiveness of any traffic control device or traffic sign on a public street.
- E. Signs which make use of words such as "stop," "look," "one-way," "danger," "yield," "go slow," "caution" or any similar words, phrases, symbols, lights or characters in such a manner as to interfere with, mislead or confuse traffic or which imitate an official traffic sign or signal.
- F. Signs which advertise an activity, business, product or service no longer produced or conducted. In such case, such sign shall be removed within 30 days after the

same is no longer produced or conducted.

- G. Signs which are placed or located within the public right-of-way, except as provided elsewhere in this chapter.
- H. Signs painted on, pasted or attached to or supported by utility poles, fences, trees or other natural objects.
- I. Signs which consist of pennants, spinners, banners, streamers or searchlights, except for occasions such as grand openings and then only with permission of the borough for such an activity limited to a period of 15 days.
- J. Signs which obstruct free ingress to or egress from a fire escape, door, window or other exitway.
- K. Signs which are structurally unsafe or in a state of disrepair.

§ 266-75. Permit application and fees.

No person shall erect, cause to be erected, change or alter any sign on any property within the borough until a permit for the same has been issued by the Zoning Officer. Property owners who authorize or allow any sign on their property shall ensure that all provisions of this chapter are adhered to and shall comply with the following provisions:

- A. Application for a permit shall be made on an authorized borough form and shall be accompanied by the following:
 - (1) A detailed scale drawing showing the sign and its intended location.
 - (2) A description of its type, construction, manner and method of installation and materials to be used.
 - (3) Written authorization of the owner or lessee of the property, if other than the applicant.
 - (4) A permit fee, as established by resolution of the Borough Council.
- B. For the purpose of this chapter, the terms "alter" or "change" shall not be interpreted to include routine maintenance.

§ 266-76. Exemptions from permits and/or fees.

- A. A permit and fee shall not be required for the following signs:
 - (1) Official state and municipal signs.
 - (2) Temporary signs.
 - (3) Signs permitted under the provisions of § 266-69A, B, C, D, E, F, I and J herein.
- B. Exemption from obtaining a permit and paying a fee does not release the person responsible for posting the sign from compliance with other standards or provisions

of this chapter and/or other applicable ordinances, codes or laws.

ARTICLE XII
Solar Energy Access Provisions

§ 266-77.General provisions.

No building permit or zoning variance involving the use of a solar energy system shall be granted unless the following requirements have been met:

- A. The planned solar energy unit must be sited and designed so as to be at a height, location and angle to the sun in order to minimize the possibility that future development of nearby property will not result in interference with the solar energy system's access to solar energy.
- B. The planned solar energy system must be of a size related to the present and anticipated energy needs of the structures to which it will supply energy.
- C. At the time that application for the building permit is made, sufficient solar energy must be available to meet the design capacity of the solar energy system at the specified location where the solar energy system will be installed.
- D. If development consistent with existing zoning or the natural growth of vegetation on nearby land would interfere with the planned solar system, the applicant for a building permit involving solar energy must either acquire a privately negotiated easement to limit future development and/or provide for the trimming or elimination of such vegetation or provide a written statement expressly waiving his right to the solar energy such future development or growth would obstruct, and a copy of either the easement or the statement must be filed with the Zoning Officer.

§ 266-78.Solar access protection.

In cases for which building permits involving the construction or installation of solar energy systems are granted, each property whose owner was notified of the solar energy building permit application pursuant to § 266-79 of this article shall be burdened by the creation of a solar skyspace easement declaring that development of height, bulk and configuration which would present an interference with the solar energy system to a degree greater than that allowed by existing zoning at the time the solar building permit was granted would constitute an impermissible interference and shall not be permitted. This provision, however, shall not be interpreted as precluding the creation and recording of private easements which afford a greater degree of solar access protection than afforded by this provision.

§ 266-79.Procedure for obtaining solar access protection.

The following procedure is established for building permit applicants who wish to secure solar access protection as provided by this chapter:

- A. The permit applicant shall send written notice by registered or certified mail to the neighboring property owners from whom protection is sought. Evidence that such

notice has been mailed to the appropriate neighboring land owners not less than 30 days before filing the permit application shall be submitted at the time of filing.

- B. Neighboring property owners shall have the right to object to the planned solar energy system insofar as it fails to meet the requirements of § 266-77 of this article or unduly infringes upon potential development rights.
- C. Objections by neighboring property owners shall be considered before a building permit is issued, provided that objections are received by the Zoning Officer within 30 days after such notification has been given by the permit applicant.
- D. Applications for solar building permits for which no objections are filed shall be approved, provided that all other provisions of this Zoning Ordinance have been satisfied. Solar access protection shall be granted as provided by § 266-78 of this article.
- E. In all cases involving the filing of objection to building permits involving solar energy use, a final determination regarding the issuance of a permit for the construction or installation of a solar energy system shall rest with the Zoning Hearing Board.

§ 266-80.Solar skyspace easements.

- A. Solar skyspace easements, whether pursuant to the provisions of this chapter or privately negotiated, shall be subject to the same conveyancing and instrument recording requirements as other easements and shall be created in writing on forms supplied by the Zoning Officer. Any such easements shall be appurtenant, shall run with the land benefited and burdened and shall be defined and limited by conditions stated in the instrument of conveyance.
- B. Instruments creating a solar skyspace easement shall include but need not be limited to:
 - (1) A permanently identifiable description of the skyspace above the burdened land into which trees, buildings and/or other obstructions as specified by the easement shall not be permitted to encroach.
 - (2) Any terms or conditions under which the solar skyspace easement is granted or will be terminated.
 - (3) Any provision for compensation of the owner of the land benefiting from the solar skyspace easement or compensation of the owner of the land burdened by the solar skyspace easement for maintaining of the easement.

§ 266-81.Determination of impermissible interference.

- A. Prior to consideration of a request for the granting of a zoning variance, change in zoning category or similar action by the Zoning Hearing Board, a determination of potential impermissible interference shall be made by the Zoning Officer. The Zoning Officer shall notify the applicant and any protected solar energy system owner by registered or certified mail if he finds that the applicant is obligated not to

interfere with the solar access of the solar energy system owner and that there is a reasonable possibility that the proposed development could create an impermissible interference. If the Zoning Officer determines that an impermissible interference could occur, all interested parties shall be allowed to appear and present evidence before the Zoning Hearing Board. The Zoning Hearing Board shall make a factual determination as to whether an impermissible interference will occur, but may request the recommendation of the Planning Commission in that determination, if it so chooses.³⁴

- B. If the Zoning Hearing Board finds that no impermissible interference will occur, the zoning variance or change in zoning category may be granted, provided that all other requirements of this chapter have been met.
- C. If the Zoning Hearing Board finds that an impermissible interference will occur, the zoning variance or change in zoning category shall not be granted unless the parties reach a private agreement whereby the owner of the solar energy system waives all or part of the rights to solar access protected by this chapter.

§ 266-82. Recording of affected properties.

In addition to the recording and conveyancing requirements normally required of easements, the Zoning Officer shall keep a map showing the location of all solar energy systems for which building permits have been granted. This map shall indicate which properties are encumbered by easements to protect solar energy systems and shall be accessible to the general public upon request.

§ 266-83. Removals.

All solar energy access rights shall be extinguished if the solar energy unit is removed and not replaced or not used for a period of two years, excluding time spent on repairs or improvements.

§ 266-84. Existing solar energy systems.

Any solar energy system existing as of the effective date of this chapter and complying with the requirements of § 266-77 may acquire the protections hereunder by following the procedures indicated in § 266-79 of this chapter and by protection of access to solar energy pursuant to this chapter.

**ARTICLE XIII
Motor Vehicle Access**

§ 266-85. General regulations.

Wherever motor vehicle access is provided from the street (or private road) onto the lot, the following regulations shall apply:

³⁴.Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- A. Driveways and curbs. Access to the lot shall comply with the following regulations:
- (1) Access shall be by not more than two driveways for each 100 feet of frontage on any street.
 - (2) Each driveway shall be **paved** and shall be not more than 35 feet in width, measured at right angles to the center line of the driveway, except as increased by permissible curb return radii. The entire flare of any return radius shall fall within the right-of-way.
 - (3) Driveways shall not cross the street right-of-way line within 40 feet of the street right-of-way line of an intersecting street and in no case less than 10 feet from the point of tangency when the intersecting street lines are joined by a curve. Notwithstanding the above and when deemed necessary for safety by the Planning Commission and/or the governing body, this dimension shall be increased for driveways into commercial, public or institutional uses.
 - (4) Driveways shall not cross the street right-of-way within five feet of a fire hydrant, catch basin or drain inlet.
 - (5) Driveways shall not cross the street right-of-way within 40 feet of another driveway on the same lot, except that in the case where dual access drives are deemed necessary to permit safe ingress and egress, these dimensions may be reduced to not less than 12 feet between the two access drives.
 - (6) Driveways shall not cross the street right-of-way in all multifamily and commercial districts within 20 feet of a property line unless two adjoining property owners mutually agreed in a legally recorded instrument to a common driveway.
 - (7) For nondwelling uses, where there is an existing curb and gutter or sidewalk on the street, a safety island along the entire frontage of the property shall be provided except for the permitted driveways. On the two ends and street side of each such island shall be constructed a concrete curb (accessible to the handicapped), the height, location and structural specifications of which shall be approved by the Borough Engineer. Maximum and minimum curb return radii permitted and minimum driveway approach angles to the center line of the street are required as shown on Plate 1, attached to this chapter as if fully described and detailed herein.³⁵
 - (8) General safety requirements: sight distance. Driveways shall be located in safe relationship to sight distance and barriers to vision and shall not exceed a slope of 10% within 12 feet of the street line. Where drives enter a bank through a cut, unless a retaining wall is used, the side slopes of the cut shall be graded to not more than one foot vertical to three feet horizontal within 10 feet of the point the drive intersects with the right-of-way line.
 - (9) Submission of plan. A scale drawing of proposed off-street parking and

³⁵.Editor's Note: Said Plate 1 is on file in the borough offices.

loading areas, access drives and walks shall be submitted as part of the required plot plan. Any plan requiring access onto a state highway shall be approved by the Pennsylvania Department of Transportation in addition to Borough Council approval.

- B. Location of gasoline pumps. Gasoline pumps and all other service equipment shall be set back not less than 25 feet from any street line and shall be so located that vehicles stopped for service will not extend over the property line.

ARTICLE XIV Administration and Enforcement

§ 266-86.Amendments.

The Borough Council may, from time to time, on its own motion or on petition or recommendation of the Planning Commission, amend, supplement or repeal any of the regulations and provisions of this chapter after public notice and hearing. Before the public hearing, each proposed amendment, except those coming from the Planning Commission, must be referred to the Planning Commission for its recommendations at least 30 days prior to the hearing on such amendment. If, after any public hearing held upon an amendment, the proposed amendment is reversed or further revised to include land not previously affected by it, the Borough Council shall hold another public hearing before proceeding to vote on the amendment. At least 30 days prior to the hearing on the ordinance or amendments by the local governing body, borough and planning agency shall submit the proposed ordinance or amendments to the county planning agency for recommendations.

§ 266-87.Curative amendments.

The procedures upon curative amendments shall be in accordance with the requirements of the Pennsylvania Municipalities Planning Code, Act 247, as amended, Section 609.1.³⁶

§ 266-88.Content of public notice.

Public notices of proposed zoning ordinances and amendments shall include either the full text thereof or a brief summary setting forth the principal provisions in reasonable detail and a reference to a place within the municipality where copies of the proposed ordinance or amendment may be examined, in addition to the time and place of hearing.

§ 266-89.Publication after enactment.

After enactment, if the advertisement of a zoning ordinance or amendment is required by other laws, the advertisement may consist solely of a reference to the place or places within the municipality where copies of such ordinances or amendment shall be obtainable for a charge not greater than the cost thereof and available for examination without charge. Zoning ordinances and amendments may be incorporated into official

³⁶.Editor's Note: See 53 P.S § 10101 et seq.

ordinance books by reference with the same force and effect as if duly recorded therein.

§ 266-90.Appointment and powers of Zoning Officer.

For the administration of this Zoning Ordinance, a Zoning Officer, who may not hold any elective office in the municipality, shall be appointed. The Zoning Officer shall administer the Zoning Ordinance in accordance with its literal terms and shall not have the power to permit any construction or any use or change of use which does not conform to the Zoning Ordinance.

§ 266-91.Enforcement.

It shall be the duty of the Zoning Officer and he is hereby given the power and authority to enforce the provisions of this chapter. The Zoning Officer shall examine all applications for permits, issue permits for construction and uses which are in accordance with the requirements of this chapter, record and file all applications for permits with accompanying plans and documents and make such reports as the Borough Council may require. Permits for construction and uses which require a variance or determination of impermissible interference shall be issued only upon written order of the Zoning Hearing Board.

§ 266-92.Zoning appeals.

All appeals from decisions of the Zoning Officer shall be taken in the manner set forth in Article X, Pennsylvania Municipalities Planning Code (Act 247), as amended.³⁷

§ 266-93.Zoning Hearing Board.

The Borough Council shall appoint a Zoning Hearing Board, which shall have three members and such powers and authority as set forth in Article IX of Act 247 of the Commonwealth of Pennsylvania, as enacted or hereafter amended.³⁸ The duly established Zoning Hearing Board shall have the following functions:

- A. Hearings. The Board shall conduct hearings and make decisions in accordance with Section 908, Pennsylvania Municipalities Planning Code (Act 247), as amended.³⁹ Notice shall be given to the public, the applicant, the County Planning Agency, the Zoning Officer, such other persons as the Borough Council shall designate by ordinance and any person who has made timely request for the same. Upon the filing with the Zoning Hearing Board of an appeal or of an application for a variance from the terms of the Penbrook Borough Zoning Ordinance, the Zoning Hearing Board shall fix a time and place for a public hearing thereon and shall give notice thereof as follows:
 - (1) By delivering or mailing notice thereof to the parties in interest.

³⁷.Editor's Note: See 53 P.S § 10101 et seq.

³⁸.Editor's Note: See 53 P.S § 10101 et seq.

³⁹.Editor's Note: See 53 P.S § 10101 et seq.

- (2) By posting a notice thereof in a conspicuous place on the premises in question and at least five notices thereof in other conspicuous places in the neighborhood, each such notice to be posted at least five days prior to the date fixed for the hearing.
 - (3) When the Board shall so order, by mailing notice thereof to the owner or owners, if the residence is known, or to the occupier or occupiers of every lot on the same street within 500 feet of the lot or building in question and of every lot not on the same street within 150 feet of said lot or building, provided that failure to give a notice required by this subsection shall not invalidate any action taken by the Board.
 - (4) By mailing a notice thereof to every resident or association of residents of the borough who shall have registered their names and addresses for this purpose with the Zoning Hearing Board.
 - (5) That notice herein required shall state the location of the building or lot and the general nature of the question involved.
- B. Appeals. 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 misinterpreted or misapplied any provision of this chapter or map or any valid rule or regulation governing the action of the Zoning Officer. Nothing contained herein shall be construed to deny to the appellant the right to proceed directly in court where appropriate.
- C. Challenge to validity. Except as provided in Subsection D below relating to variances, the Board shall have no power to pass upon the validity of any provision of an ordinance or map adopted by the Borough Council. Recognizing that challenges to the validity of an ordinance or map may present issues of fact and interpretation which may lie within the special competence of the Board and to facilitate speedy disposition of such challenges by a court, the Board may hear all challenges wherein the validity of the ordinance or map presents any issue of fact or interpretation not hitherto properly determined at a hearing before another competent agency or body and shall take evidence and make a record thereon as provided in Subsection A above. At the conclusion of the hearing, the Board shall decide all contested questions of interpretation and make findings on all relevant issues of fact, which shall become part of the record on appeal to court.
- D. Variances. The Board shall hear requests for variances where it is alleged that the provisions of the Zoning Ordinance inflict unnecessary hardship upon the applicant. The Board shall prescribe the form of application and require preliminary application to the Zoning Officer. The Board may grant a variance, provided that the following findings are made where they are relevant in a given case:
- (1) That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the

circumstances or conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located;

- (2) That, because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and the authorization of a variance is therefore necessary to enable the reasonable use of the property;
- (3) That such unnecessary hardship had not been created by the appellant;
- (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare; and
- (5) That the variance, if authorized, will represent the minimum variance which will afford relief and represent the least modification possible of the regulation in issue. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Zoning Ordinance.

E. Parties appellant before the Board. Appeals under Subsection B above and proceedings to challenge an ordinance under Subsection C above may be filed with the Board, in writing, by any officer or agency of the Borough of Penbrook or any person aggrieved. Requests for a variance under Subsection D above may be filed with the Board by any landowner or any tenant with the permission of such landowner.

- (1) Time limitations. The time limitations for raising certain issues and filing certain proceedings with the Board shall be the following:
 - (a) No issue of alleged defect in the process of enactment of any ordinance or map or any amendment thereto shall be raised in any proceeding filed with the Board later than 30 days from the time such ordinance, map or amendment takes effect, unless the person raising such issues alleges and proves that he failed to receive adequate notice of the enactment or amendment. If such person has succeeded to his interest after the enactment of the ordinances, adequate notice to his predecessor in interest shall be deemed adequate notice to him.
 - (b) No person shall be allowed to file any proceeding with the Board later than 30 days after any application for development, preliminary or final, has been approved by an appropriate Borough of Penbrook officer, agency or body if such proceeding is designed to secure reversal or limit the approval in any manner, unless such person alleges and proves that he failed to receive adequate notice of such approval. If such person has succeeded to his interest after such approval, adequate notice to his predecessor in interest shall be deemed adequate notice to him.
- (2) Stay of proceedings. Upon filing of any proceeding referred to in this

subsection and during its pendency before the Board, all land development pursuant to any challenged ordinance order or approval of the Zoning Officer or any agency or body and all official action thereunder shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property; in which case, the development or official action shall not be stayed otherwise than by a restraining order which may be granted by the Board or the court having jurisdiction of zoning appeals on petition after notice to the Zoning Officer or other appropriate agency or body.

- F. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board. The question of whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court.

§ 266-94.Permits.

- A. Requirements of permits. A building permit shall be required prior to the erection, addition or alteration of any building or portion thereof or construction or installation of a solar energy system prior to the change or extension of a nonconforming use. It shall be unlawful for any person to commence work for the erection or alteration of any building or for a change in land use until a permit has been duly issued therefor.
- B. Application for permits. All applications for permits shall be accompanied by plans in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact size and location of any buildings existing on the lot, an indication, if required, of the shadows potentially cast by the proposed structures, existing buildings and mature landscaping at 9:00 a.m., 12:00 noon and 3:00 p.m. on the date of the winter solstice, the lines within which the proposed building or structure shall be erected or altered, the existing and intended use of each building or part of a building, the number of families or dwelling units the building is designed to accommodate; plot diagrams for structures proposed to use solar energy systems shall also require an indication of each neighboring property potentially posing an impermissible interference; and such information as may be necessary to determine compliance with this chapter and all other pertinent ordinances. One copy of such plans shall be returned to the owner when such plans shall be approved by the Zoning Officer. All applications with accompanying plans and documents shall become a public record after a permit is issued or denied.
- C. Issuance of permits. No permit shall be issued until the Zoning Officer has certified that the proposed building, addition or alteration does not represent an impermissible interference with a protected solar energy system and if, in the case of a solar building permit, no objections have been filed and a determination of an impermissible interference with a solar building permit for which valid objections

have been filed complies with all the provisions of this chapter, as well as with all the provisions of an existing or hereafter enacted Building Code. If the Zoning Officer determines that there is a reasonable possibility that the proposed development could create an impermissible interference, he shall so notify the applicant as provided in Article XII. A permit issued hereunder shall become void 12 months after the issuance date.

- D. Temporary zoning permits. A temporary zoning permit may be authorized by the Zoning Hearing Board for a nonconforming structure or use which it deems necessary to promote the proper development of the community, provided that such nonconforming structure or use shall be completely removed upon expiration of the permit without cost to the municipality. Such permits shall be issued for a specified period of time not to exceed one year and may be renewed annually for an aggregate period not exceeding three years.
- E. Certificate of nonconformance. A certificate of nonconformance shall be issued by the Zoning Officer to the owner of any property which, at the time of the effective date of this chapter, is identified as a nonconforming use. The owner's property and the issuance of such certificates shall be registered in the records of the municipality as follows:
 - (1) Such certificates of nonconformance shall be issued within 180 days after the effective date of this chapter.
 - (2) The certificate of nonconformance shall set forth in detail all of the nonconforming conditions of said property.
 - (3) A copy of the certificate of nonconformance shall be retained by the Zoning Officer for the municipal registration.
 - (4) The certificate shall be for the purposes of ensuring the owner the right to continue a nonconforming use in accordance with the regulations of this chapter.

§ 266-95.Fees.

- A. The Borough Council shall establish a schedule of fees, charges and expenses, as well as collection procedure for zoning permits, certificates of occupancy, appeals, variances, conditional uses, special exceptions, amendments, bonds and other matters pertaining to this chapter. The schedule of fees shall be posted in the office of the Zoning Officer.
- B. Such fees shall be payable to the borough, and until all applicable fees, charges and expenses have been paid in full, the applications shall be considered incomplete and no action shall be taken on any application of appeal.

§ 266-96.Inspection by the Zoning Officer.

It shall be the duty of the Zoning Officer or his duly appointed representative to make the following minimum number of inspections of the property:

- A. A meeting at the site prior to the issuance of a building permit.
- B. At the beginning of construction.
 - (1) A record shall be made indicating the time and date of inspection and the finding of the Zoning Officer in regard to conformance of the construction with plans submitted with the application for the building.
 - (2) If the actual construction does not conform to the application, a written notice of a violation shall be issued by the Zoning Officer and such violation shall be discontinued. Upon proper correction of the violation and receipt of written notice from the Zoning Officer, construction shall proceed.
- C. At the completion of construction. A record shall be made indicating the time and date of the inspection, the findings of the Zoning Officer in regard to conformance to this chapter and the opinion of the Zoning Officer in regard to the issuance of a certificate of use permit.

§ 266-97. Certificate of use.

- A. A certificate of use shall be a statement issued by the Zoning Officer setting forth either that a building, structure or parcel of land complies with the provisions of this chapter or that a building or structure lawfully may be employed for specified uses under the provisions of this chapter, or both.
- B. No vacant land shall be occupied or used and no structure or part of a structure hereafter erected, substantial improved or changed in use shall be occupied or used until a certificate of use shall have been issued by the Zoning Officer.
- C. A certificate of use for the use or occupancy of vacant land or for a change in the use of land or for a change in the use of an existing building, either for whole or part of a new building, shall be applied for coincident with the application for a building permit and shall be issued within 15 days after a final inspection and approval by the Zoning Officer.
- D. A certificate of use for changing or extending a nonconforming use, existing at the time of the passage of this chapter or of an amendment thereto, shall be applied for and issued before any such nonconforming use shall be changed or extended. Such certificate shall be changed or extended. Such certificate shall be issued within 15 days after a final inspection and approval by the Zoning Officer.
- E. A record of all certificates of use shall be kept on file in the office of the Zoning Officer and a copy shall be furnished on request to any person having a proprietary or tenancy interest in the building or land affected.

§ 266-98. Violations and penalties.

Failure to comply with any provision of this chapter, failure to secure a building permit or Zoning Hearing Board certificate, when required, previous to the erection, construction, extension or addition to a building or failure to secure a certificate of use shall be violations of this chapter.

- A. Notice of violation. When written notice of a violation of any of the provisions of this chapter has been served by the Zoning Officer on the owner, agent, occupant or contractor of a building, such violation shall be discontinued immediately.
- B. Causes of action. In case any building, structure, landscaping or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained or used in violation of this chapter, the proper officer of the borough or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land or to prevent in or about such premises any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the municipality at least 30 days prior to the time the action is begun by serving a copy of the complaint on the governing body of the municipality. No such action may be maintained until such notice has been given.
- C. Enforcement remedies.
 - (1) Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this chapter shall, upon being found liable therefore in a civil enforcement proceeding commenced by the municipality, pay a judgment of not more than \$500, plus all court costs, including reasonable attorney fees incurred by the municipality as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the municipality 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 good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice, and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of zoning ordinances shall be paid over to the municipality.
 - (2) 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.
 - (3) Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the municipality the right to commence any action for enforcement pursuant to this section.

§ 266-99.Appeals.

- A. An appeal or application for a variance from the terms of this chapter may be filed

with the Zoning Officer and shall state:

- (1) The name and address of the applicant.
 - (2) The name and address of the owner of the real estate to be affected by such variance.
 - (3) A brief description and location of the real estate to be affected by such proposed change.
 - (4) A statement of the section of this chapter under which the variance may be allowed and reasons why it should be granted.
 - (5) A reasonably accurate description of the present improvements and the additions intended to be made under this application, indicating the size of such proposed improvements, materials and general construction thereof. In addition, there shall be attached a plat of the real estate to be affected, as required to accompany applications for building permits, indicating the location and size of the lot and size of improvements now erected and proposed to be erected thereon.
- B. All appeals from determinations by the Zoning Officer under this section shall be to the Zoning Hearing Board within 30 days of the date of the determination.

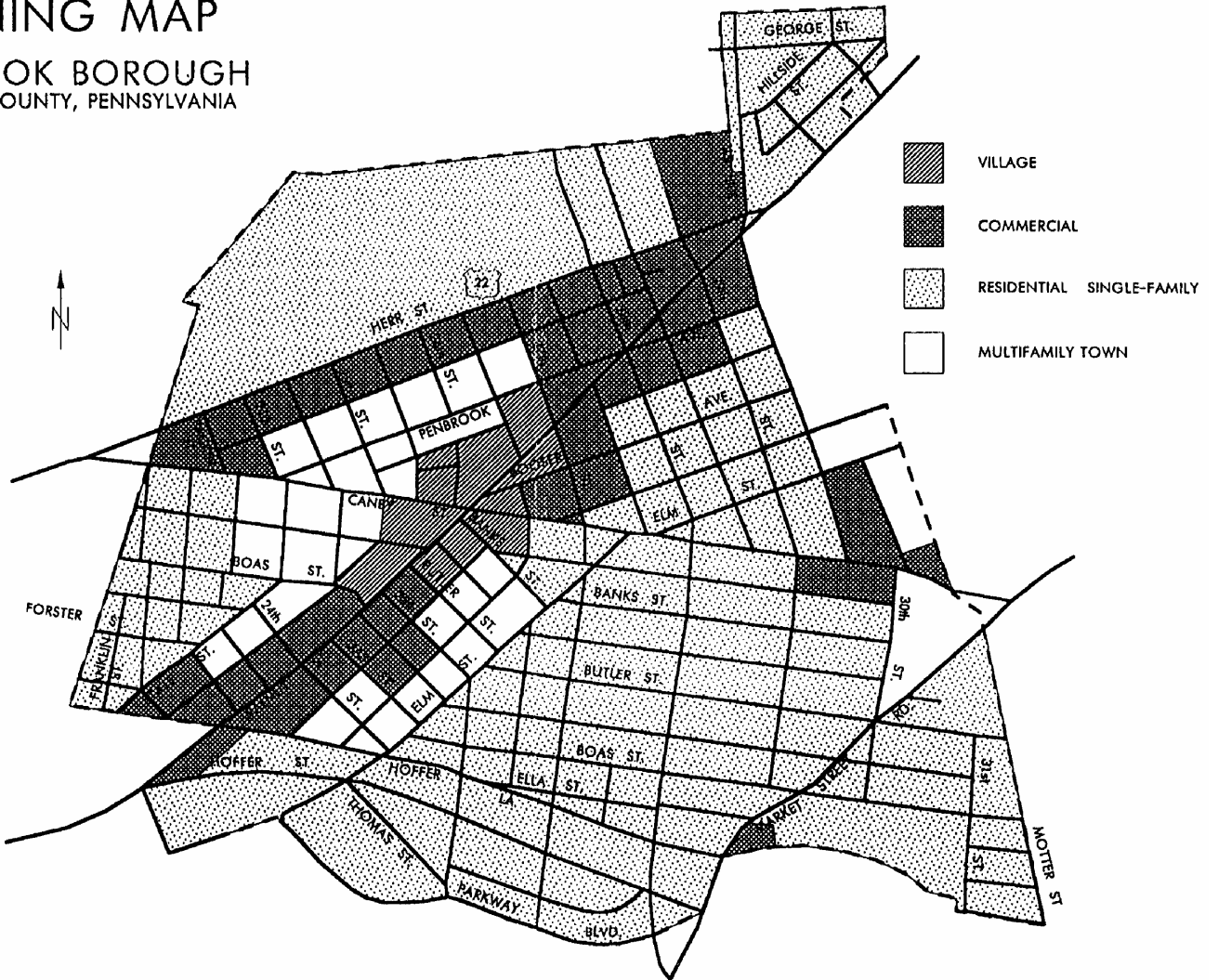
§ 266-100. Interpretation, purpose and conflict.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the health, safety, morals and general welfare. It is not intended to interfere with or abrogate or annul other rules, regulations or ordinances, provided that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of a building or requires larger open spaces than are imposed by such other rules, easements, covenants, restrictions, regulations or ordinances, the provisions of this chapter shall control.

ZONING MAP

PENBROOK BOROUGH

DAUPHIN COUNTY, PENNSYLVANIA



Appendix A
Joint Parking Agreement
Borough of Penbrook

This Agreement is made this _____ day of _____, 20____, between _____, with principal offices at _____, the owner real estate on which parking is being provided (hereinafter "Grantor") and _____ with principal offices at _____, to whom parking is being supplied (hereinafter "Grantee"). Grantor certifies that all parties with ownership or equitable interest in the property herein have joined in this Agreement.

WHEREAS, the Borough of Penbrook has certain parking requirements by Ordinance for each business in the Borough; and

WHEREAS, Grantee wishes to establish a business in the Borough of Penbrook, which businesses is identified as _____, requiring _____ parking spaces under existing Borough Codes, which business shall be operated in the Borough of Penbrook at _____; and

WHEREAS, without this Agreement Grantee has only _____ qualifying parking spaces or _____ fewer than required by Ordinance; and

WHEREAS, Grantor is the owner of real property in the Borough of Penbrook at _____, being the owner of the same by deed dated the _____ day of _____ and recorded in the office of the Recorder of Deeds in Dauphin County in Deed Book _____, Volume _____, Page _____; and

WHEREAS, Grantor has excess parking space beyond that required by Ordinance by his or her own property or used during different hours than Grantee's grant of use, adequate to accommodate Grantee and has made no prior commitment to rent, lease or jointly park or otherwise encumbering the use of such area; and

WHEREAS, both Grantor And Grantee understand that this deed will be recorded in the office of the Recorder of Deeds and will run in perpetuity so long as Grantee or its successor operates a business at the location set forth herein and requires parking; and

WHEREAS, Grantor and Grantee both understand and agree that this Agreement shall have the benefit of the Borough of Penbrook and shall be enforceable by the Borough of Penbrook.

NOW, THEREFORE, in exchange for One (\$1.00) Dollar and other good and valuable consideration, receipt of which is hereby acknowledged, and intending to be legally bound, the parties hereto agree as follows:

1. Recitals: The recitals set forth above are incorporated herein.

2. Grant of Joint Parking Agreement: The Grantor herein, the owner of real property at _____ in the Borough of Penbrook, Dauphin County, Pennsylvania hereby grants a permanent and perpetual easement and right of use to Grantee, its business invitees and employees and others visiting the business set forth herein run by Grantee or its successors, and no less than _____ spaces being located as follows: _____.
The use of such parking area is not restricted (or if restricted is restricted to the extent: _____.)

3. Maintenance: The parties understand that the identified parking which exists in the Borough of Penbrook must be maintained including capital maintenance such as paving and periodic maintenance such as cleaning, trimming vegetation or removing snow. The parties agree that the same shall be performed and paid for as follows:

4. Enforcement: It is the intent of the parties that this Agreement be recorded in the Office of the Recorder of Deeds of Dauphin County and that, to be effective, the Borough of Penbrook may require a recorded copy be supplied to it. It is further intended that the Borough of Penbrook has the right to enforce this Agreement, including the right to require the parking set forth herein be provided from Grantor to Grantee or its successors and that all cost of enforcement, including court costs, filing fees, service charges and reasonable attorney fees shall be paid by either party hereto breaching this Agreement.

5. Termination: This Agreement may be terminated only with the written agreement of Grantee or its successor and assign and the written agreement of the Borough of Penbrook.

6. In Perpetuity: The Agreement shall run for so long as Grantee or its successor operates the use set forth herein or any successor use requiring parking and shall bind Grantor(s) and Grantee(s) and their successors and assigns.

7. Governing Law: This Agreement shall be governed under the laws of the Commonwealth of Pennsylvania with jurisdiction and venue for all disputes vesting in the Dauphin County Court of Common Pleas. This Agreement is the entire agreement between the parties with regard to the subject matter hereof.

8. Certification: Grantee certifies that the parking spaces identified herein are no further than six hundred (600) feet from the primary entrance of the business identified as the business of the Grantee to be served by such parking spaces. See attached drawing. The parties attach hereto, as Exhibit "A", drawn to scale showing the location of each of the uses for the parking for the facility identified herein, the parking area covered by this agreement and the primary entrance of each use.

ATTEST:

Grantor

Grantor

Grantor

Grantor

ACKNOWLEDGEMENT

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF _____ :

On this the _____ day of _____, 20____, before me a Notary Public, in and for the county and state, the undersigned officer, personally appeared _____, who acknowledged himself to be the _____, being authorized to do so, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My commission expires:

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF _____ :

On this the _____ day of _____, 20____, before me a Notary Public, in and for the county and state, the undersigned officer, personally appeared _____, who acknowledged himself to be the _____, being authorized to do so, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My commission expires:

EXHIBIT "A"
**Drawing to Scale of Parking Area Showing Distance to Primary Entrance to Each
Business Using the Parking Set Forth Herein**