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ARTICLE I – GENERAL PROVISIONS**Section 101. SHORT TITLE**

This Ordinance shall be known and may be cited as “Separate But Consistent Zoning Ordinances for the Township of Jackson, the Township of Cambria, and the Borough of Ebensburg.”

Section 102. PURPOSE

This Ordinance is adopted by the virtue of the authority contained in the Pennsylvania Municipalities Planning Code, Act of 1968, P.L. 805, No. 247 as amended thru 2006. The zoning regulations and zones set forth in this Ordinance are made in accordance with the Multi-Municipal Comprehensive Plan for the Central Cambria Coalition (Jackson Township, Cambria Township, and Ebensburg Borough) for the general welfare of the Municipalities and is intended to achieve, among others, the following purpose.

Regulating both existing and proposed land uses thereby:

- 1. Encouraging the most appropriate use of land;**
- 2. Preventing the overcrowding of land;**
- 3. Stabilizing and conserving the value of land and buildings;**
- 4. Facilitating development of good quality;**
- 5. Spurring reinvestment in the existing building stock;**
- 6. Lessening the congestion of traffic on the roads;**
- 7. Avoiding undue congestion of population;**
- 8. Providing for adequate light and air;**
- 9. Securing safety from fire, flood, and other dangers;**
- 10. Facilitating the adequate provision for transportation, water supply, sewage disposal, drainage, schools, parks, and other public facilities;**
- 11. Giving reasonable consideration, among other things, to the character of zones and their peculiar suitability for particular uses;**
- 12. Maintain and strengthen the Central Cambria Municipalities.**
- 13. Ensure predictability and consistency in the land development process for neighborhood, business and development interests; and**

14. Giving effect to the policies and proposals of the Multi-Municipal Comprehensive Plan, as amended and as approved by the Jackson and Cambria Township and Ebensburg Borough Planning Commissions and adopted by Resolution by the Jackson and Cambria Township Boards of Supervisors and the Ebensburg Borough Council.

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the health, safety, morals, and general welfare.

Section 103. A READER’S GUIDE TO THE ORGANIZATION AND APPLICABILITY OF THIS ORDINANCE

See Appendix.

Section 104. WHERE DO I BEGIN? - A BEGINNERS READING GUIDE TO DETERMINING YOUR PROPERTY’S REGULATIONS

See Appendix.

Section 105. STATEMENT OF COMMUNITY OBJECTIVES

This Ordinance implements, with general consistency, the community goals and objectives as described in the Multi-Municipal Comprehensive Plan prepared Jointly and Adopted by the Township of Jackson on November 7, 2008, the Township of Cambria on November 7, 2008, and the Borough of Ebensburg on November 24, 2008. (The Community Goals and Objectives can be found in their entirety in the APPENDIX of this Zoning Ordinance).

Section 106. INTERPRETATION

For the purposes of this Ordinance, words shall be interpreted as follows unless noted otherwise.

1. Words that are defined in Article IX (“Definitions”) shall be interpreted as they are defined there.
2. Undefined terms must be given their usual and ordinary meaning within the Central Cambria Municipalities or an authoritative source.
3. Words used in the present tense include the future tense. The singular includes the plural.
4. The word “person” refers to firms, associations, organizations, trusts, partnerships, companies, corporations, and individual persons.
5. The word “shall” means mandatory.
6. The word “may” means permissive.
7. The word “lot” is a synonym of “plot,” “piece,” and “parcel.”

8. The words “used” and “occupied” as applied to any lot or building shall be construed to include the words “intended, arranged, maintained, and/or designed to be used or occupied.”
9. The word “day” shall be interpreted as being a full calendar day.
10. When the meaning of a regulation as it applies to a given property is not clear, it shall be interpreted in favor of that property and against any implied extension of the regulation.

Section 107. CONFLICT

Urban Redevelopment Plans and Proposals, as enabled by the Urban Redevelopment Law Act of 1945, always supersede the provisions and regulations of this Ordinance.

This Ordinance is not intended to interfere with, abrogate or annul applicable state or federal laws, or other rules, regulations or ordinances, provided that where a provision of this Ordinance conflicts with a provision of another, the stricter of the two shall apply. Where the applicable provision of this Ordinance is the less strict of the two, it shall not apply. However, the remainder of this Ordinance shall remain in full force and effect.

Section 108. CONFLICT WITH FLOODPLAIN REGULATIONS

All structures and plans for structures within each Municipalities’ floodplain or any subsequent revisions thereof are subject to the floodplain regulations enacted by the Municipalities’ floodplain ordinance. Furthermore, all structures and plans for structures within the Municipalities’ floodplain as defined by any relevant federal and state legislation shall be subject to the floodplain regulations imposed by that legislation. Where any such ordinance or law imposes stricter regulations than the relevant parts of this Ordinance do, those parts of this Ordinance shall be null and void. Furthermore, where the provisions of any such ordinance or law contradict the provisions of this Ordinance, the stricter of the two shall apply. In both instances, the parts of this Ordinance that are not relevant to the provisions of the other law or ordinance shall remain in effect.

Section 109. SEVERABILITY

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole, or of any other part thereof.

Section 110. EFFECTIVE DATE

This Ordinance shall become effective June 28, 2010.

Section 111. REPEAL OF EXISTING ORDINANCES

All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance be and the same are hereby repealed to the extent of the conflict. Specifically, Ordinance #462 dated June 23, 1997 and all subsequent amendments thereto are hereby repealed.

Section 112. APPLICATION OF REGULATIONS DURING LOCAL EMERGENCIES

The Borough Council may temporarily waive some of the regulations of this Ordinance during a declared local emergency. Any structure suitable for a housing facility in the case of emergency, necessity, or disaster, may be used for *temporary* housing or shelter in order to alleviate undue hardship that may be incurred by the above conditions, and that such *use of Temporary Housing* shall not exceed a period of more than 90 days from the date of same. If, for any of the above reasons the Borough Council finds that the 90-day period is not sufficient, then the emergency regulations may be extended for additional 90-day period.

During the period of enforcement of this regulation all other regulations regarding limitations to the *use of premises* for residential re-use are suspended until the termination of the emergency provided for herein. Uses and structures initiated under these provisions enjoy no vested rights and have grandfathered status once the emergency declaration is lifted.

Section 113. CLASSIFICATION OF PARCELS THAT CONSIST OF SEVERAL USES

For the purposes of this Ordinance, parcels that consist of several land *uses* shall be classified by the land *use* that this Ordinance regulates the most strictly.

ARTICLE II-ADMINISTRATION**Section 201. PURPOSE**

The purpose of this Article is to define the following administrative provisions: zoning permits, how to get zoning permits, variances, how to get a variance, special exception uses, conditional uses, procedures for obtaining permits for special exception and condition uses, lists the standards that the Zoning Hearing Board is to utilize in determining whether or not to grant a special exception use, lists the standards that the Borough Council are to employ in determining whether or not to grant a conditional use, how the Title is enforced, how landowners may contest the Zoning Officer's determinations, how landowners may dispute the validity of this Title and the administrative provisions that are relevant to municipal officials such as the zoning-related duties of the Zoning Officer, Borough Council, and the establishment and conduct of the Zoning Hearing Board.

Section 202. ZONING PERMITS**A. When Zoning Permits Are Needed**

A zoning permit is needed before a land owner may have a structure erected, constructed, altered, converted, or moved onto his or her lot; or have a non-conforming, structure reconstructed, structurally altered, or moved on his or her lot (unless this ordinance specifically states otherwise). Article VII "Signs", explains when zoning permits are required for signs. No land improvements or other development activities shall be commenced before the involved landowner has a zoning permit for these activities.

B. Issuance of Denial of Permits

The issuance or denial of zoning permits shall follow the following procedure:

1. Filing

An application shall not be officially filed until all required information has been submitted per the Submittal Requirements in the Administration Section of the Code.

2. Review

The Zoning Officer shall not issue a permit unless it is determined that (1) the proposed development complies with the provisions of this Ordinance, and (2) the permit meets approvals through the interdepartmental review process established in the Administration Title of the Code

3. Decision

If these determinations are made, then the Zoning Officer shall issue a zoning permit. If the Zoning Officer does not act within 30 days after all approvals are received from the interdepartmental review process, then the permit shall be deemed to be issued.

C. The Duration of Zoning Permits

A zoning permit shall expire within six (6) months of the date of issuance if all required permits have not been approved regardless of jurisdiction. If all required permits have not been approved in the specified time period, a permit extension may be requested through the Zoning Hearing Board. In such cases, the zoning permit shall remain valid until the Board renders its decision.

D. Inspections

In order to determine if the information submitted on or with an application is true and is being adhered to, the Zoning Officer shall have the authority to enter any building, structure, premises, property, or development in the Borough at any reasonable hour upon presentation or proper credentials. If the party seeking a zoning permit believes that the denial of a zoning permit was made in error he may appeal the issuance of a zoning permit, as specified in Section 210 “Appealing the Determination of a Zoning Officer”.

E. Revocation of Permits

If the Zoning Officer discovers that the development does not comply with the approved application or any applicable laws or ordinances, or if the permit fee required by this ordinance has not been paid, or if the Zoning Officer determined that an applicant has made any false statements or misrepresentations regarding the development, the Zoning Officer shall revoke the zoning permit and proceed with whatever legal action is necessary to correct the violation.

F. Permits Issued in Error

Any zoning permit issued in error shall be null and void

G. Appeals

The applicant may appeal the denial of a zoning permit, and aggrieved persons may appeal the issuance of a zoning permit, as specified in Section 210 “Appealing the Determination of a Zoning Officer”

Section 203. VESTED RIGHTS AND DEVELOPMENT CHANGES

- A.** Nothing in this Title shall require any change in the development or use of a lot or structure for which a zoning permit was officially filed prior to the effective date of an amendment to this Ordinance, however, no properties or buildings shall deviate from the plans and other information submitted and approved under prior ordinances. Conditional Uses, Special Exceptions, and Variance issued under prior ordinances shall become non-conforming uses or structures on the effective date of this Ordinance and all changes from the original plans shall be treated as changes to non-conforming uses, unless such changes comply with this Ordinance.
- B.** If a zoning permit is issued, the involved development shall not deviate from the plans and other information submitted to the zoning officer—or the Borough Council in the case of a conditional or temporary use and the Zoning Hearing Board in the case of a special exception or variance. Requests for all such approvals shall be submitted in writing to the Zoning Officer.

Section 204. VARIANCES

The regulations of this Title apply to and are designed to address the conditions of either the entire Multi-Municipal area or an entire zone. Thus, they are not precisely geared to any one property. The regulations were designed in this manner to avoid unequal, unfair, or arbitrary treatment of different landowners. Because these generalized regulations were not designed with any one property in mind, however, it is possible—in a few situations—that they could prevent any use of a property. The function of a variance is to provide relief from a provision of this Title in order to keep an owner from suffering an “unnecessary hardship” due to that provision.

However, variances should not be given freely. If every landowner or tenant who suffered any kind of a hardship due to the regulations of this ordinance were granted a variance, then this Ordinance would be unable to fulfill its purposes. Thus, *letter "C"* below specifies conditions that the Zoning Hearing Board (Section 214) uses to distinguish genuine unnecessary hardships from common inconveniences.

A. Who May Apply

Any landowner, person with ownership interest or tenant who has the permission of his or her landowner may apply for a variance.

B. Procedure

A party listed in §A above who wishes to obtain a variance must submit a written application to the Zoning Officer on a form supplied by the Zoning Hearing Board. This application shall specifically cite the provisions of this Ordinance from which the applicant is seeking relief. After determining that the application is complete, the Zoning Officer shall forward the application to the members of the Zoning Hearing Board. At the involved hearing, the Zoning Hearing Board shall follow the procedure specified in *Section 213, "The Zoning Hearing Board."* In granting any variance the Zoning Hearing Board may attach such reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this Ordinance. Appeals to the Board's decision may be made to the court of common pleas of Cambria County.

C. Conditions

The Zoning Hearing Board may only grant a variance when it makes all of the following six findings:

1. that there are unique and peculiar physical conditions present on the involved property, such as the size, shape, or topography of the involved lot, that were not created by the provisions of this ordinance;
2. that, because of these conditions, there is no possibility that the involved property can be developed in strict conformity with the provisions of this ordinance, that if these provisions were rigidly implemented, the property would be virtually unusable and without any economic value;
3. that this unnecessary hardship was not created by the applicant property owner/tenant or any of his or her predecessors;
4. that the variance requested, if granted, (1) will not alter the essential character of the involved neighborhood or zoning district, (2) will not substantially or permanently impair the appropriate use or development of any adjacent properties, and (3) will not be detrimental to the public welfare; and
5. that the variance, if granted, will be the smallest possible modification of the involved regulation that will provide relief from this regulation.
6. that the variance, if granted, does not permit the use of the land to change.

Section 205. SPECIAL EXCEPTIONS

Within the Central Cambria municipalities generally, or within certain zoning districts, certain uses specified in this Ordinance are appropriate for certain zoning districts only if adequate precautions are taken to assure that they do not generate adverse impacts and to assure that they comply with the purpose of the zoning district and this Ordinance. These uses are of such a nature that the heightened scrutiny of special and intensive review is required to determine whether they should be permitted in specific locations, and if any special conditions and safeguards should be applied if a special exception or a conditional use permit is granted.

It is important to note that special exceptions are not deviations from this Ordinance or its purposes listed in Section 201 (“Purpose”). These uses are both envisioned by this Ordinance and, if the location and operation standards prescribed by this article are followed, permitted by this Ordinance.

A “Special exception” is permission granted to an applicant to use land in a zoning district for a purpose or land use that is not permitted outright (i.e., that is not a permitted principal or accessory use) in that district. Special exceptions are utilized by this Ordinance because merely allowing and not allowing land uses is too narrow for sound planning in some zones. Some land uses fall in between what is consistent and what is not consistent with a zone’s planned way of life. Furthermore, some uses should be located in a zone, but should be very carefully sited or controlled in order to protect the zone’s overall quality of life. Establishing a special exception system for the Central Cambria Municipalities that allows such land uses in appropriate zones, subject to location and operation standards that are to protect the quality of life in those zones, is the general purpose of this section.

Procedures for granting special exceptions as provided herein are intended to assure that such review is made on the basis of findings of fact, that due process is assured, and appropriate conditions and safeguards are attached if warranted by the findings of facts. Such conditions shall be based upon the standards in this Ordinance. Special exception permit procedures shall be applied, and such permits granted, only as specified in this Ordinance.

A special exception is granted or denied by the Zoning Hearing Board. Land uses that are allowed as special exceptions generally affect only their particular neighborhoods.

The procedure that an applicant is to use in obtaining a special exception is provided in this section. The standards that the Zoning Hearing Board is to use in determining whether or not a special exception should be granted to the applicant are provided in the Sections of Article IV that pertain to the applicant’s property. This article and its regulations only apply to land uses that are proposed to be established in a zone where those uses are allowed only as special exceptions.

All applications for special exceptions shall be made according to the following rules.

A. Who May Apply

Any landowner, ownership interest or tenant with the written permission of his or her landowner may apply for a special exception.

B. Permitted Land Uses

The only land uses that may be permitted through a special exception are those that are expressly permitted as special exceptions for the involved zone as listed within the Sections of Article V (“Zone Provisions”) that pertain to the applicant’s property or other parts of this Ordinance.

C. Applications

Any one of the aforementioned parties who wishes to establish a land use that is permitted in the involved zoning district as a special exception shall file an application with the Zoning Officer on forms and with supporting material as required by the rules of the Zoning Hearing Board. The Zoning Officer or designee shall establish an agenda for public hearing, cause notice of the time and place of the public hearing to be published, and give notice to parties in interest as prescribed in Section 213.G.2(b). Within five days of receiving an application for a special exception, the Borough Secretary shall forward a complete copy of the application to the Zoning Hearing Board.

An application for a special exception shall not be considered complete unless it provides adequate levels of information enabling the Zoning Hearing Board to determine if the proposed land use meets the standards given for that use under the Sections of Article V (“Zone Provisions”) that pertain to the applicant’s property.

D. Procedures and Conditions

The procedure that the Zoning Hearing Board is to use in deciding whether or not to grant a special exception is given in Section 213, “The Zoning Hearing Board”

In granting any special exceptions, the Zoning Hearing Board shall state in said approval lighting requirements, sign restrictions, parking requirements, operating hours and any other reasonable conditions and safeguards it may deem necessary to implement the purposes of this Ordinance.

In granting a special exception, the Zoning Hearing Board may attach reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance (see Section 102, “Purpose”). Such conditions shall “run with the land,” and shall not be tied solely to a particular landowner. If a condition is violated subsequent to the grant of a special exception, it shall be enforced according to the provisions of Section 206, “Enforcement.”

E. Burdens Of Proof

In special exception hearings, the burden of proof shall be on the applicant to prove that his or her proposed use meets the standards prescribed for it by the Sections of Article V (“Zone Provisions”) that pertain to the applicant’s property.

F. Appeals

The decision of the Zoning Hearing Board regarding a special exception application may be appealed to the relevant court of common pleas.

Section 206. ENFORCEMENT

The purpose of Section 206 is to prescribe procedures that will effectively enforce the provisions of this ordinance while (1) protecting the legal rights of landowners, and (2) adhering to the rules for zoning ordinance enforcement that are established in the Pennsylvania Municipalities Planning Code (Act of 1968, P.L. 805, No. 247, as reenacted and amended thru 2001). These procedures apply to situations in which a person, partnership, or corporation, reconstructs, repairs, alters, maintains, establishes, or uses a structure, sign, building, lot, or land use in a manner that violates one or more of the provisions of this Ordinance. In other words, these procedures apply to situations involving an illegal structure, sign, lot, or use. They do not apply to situations involving a structure, sign, lot, or use that is a nonconformity (as defined in Article III, “Non-conforming Buildings and Uses”) or that has a variance (as defined in Article II, Section 204, “Variances”).

In Pennsylvania, zoning ordinances are enforced through legal proceedings. These proceedings may be instituted by the following groups of people.

1. The Borough Council;
2. The Zoning Officer of the Borough
3. An aggrieved party who would be substantially affected by the alleged violation.

The procedure that is to be used by the first two of these groups is discussed under §A below. The procedure that is to be used by aggrieved parties is discussed under §B below.

A. Borough Enforcement Procedure

If it appears to the Municipalities that a violation of this Ordinance has occurred, then enforcement proceedings shall be instituted as described below.

1. Before any other enforcement actions begin, the Zoning Officer shall send enforcement notice to the following parties;
 - a. the owner of record of the parcel on which the violation has occurred,
 - b. any person who has filed a written request to receive enforcement notices regarding the involved parcel, and
 - c. any person that the owner requested, in writing, to receive a copy.
2. Each enforcement notice required by this section shall contain:
 - a. the name of the involved landowner and any other persons against whom the Borough intends to take action,
 - b. the location of the property in violation,
 - c. a description of the specific violation involved,
 - d. citations and descriptions of the specific provisions of this Ordinance which have been violated,

- e. the date before which the steps for compliance must be commenced, as well as the date before which these steps must be completed, and
 - f. a statement noting that the recipient has the right to appeal the enforcement notice to the Zoning Hearing Board within 30 days, and that failure to comply with the notice within the time specified, unless it is extended by appeals, constitutes a violation of this ordinance, with possible sanctions clearly described.
3. In a Zoning Hearing Board hearing where an enforcement notice is appealed, the Borough shall present its evidence against the appellant first.
 4. Any filing fees paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to that party by the Borough if the Board or any court in a subsequent appeal rules in the appellant's favor.
 5. After all necessary enforcement notices are sent as required above, the Borough Council, or, acting with Council's approval, officers of the Borough, as well as certain aggrieved parties, may institute civil proceedings with the appropriate district justice to enforce the provisions of this Ordinance, and to prevent, restrain, correct, or abate an illegal structure, sign, lot, or land use. Any person, partnership, or corporation who has violated or permitted the violation of this Ordinance shall, upon being found liable in a civil enforcement proceeding, pay a judgment of not more than \$500 plus all court costs, including all reasonable attorney fees incurred by the Borough. No penalties shall be imposed on the liable party until the date of the determination of a violation by the involved district justice. If the liable party neither pays nor appeals the judgment in a timely manner, the Borough shall enforce the judgment pursuant to the applicable rules of civil procedure.
 6. Each day that a violation continues shall constitute a separate violation, unless the district justice finds that there was a good faith basis for the liable party to have believed that there was no such violation. In this situation, there shall be only one violation until the fifth day following the date of the determination of a violation by the district justice, after which each day that the violation continues shall constitute a separate violation.
 7. 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.

B. Aggrieved Party Enforcement Procedure

Aggrieved parties may file an equity action in court (i.e., not with the district justice) to enforce the provisions of this ordinance and prevent, restrain, correct, or abate an illegal structure, sign, lot, or land use. Such parties may file such an action only after serving notice to the Borough at least 30 days in advance. This notice is to allow the Borough time to investigate the situation and to issue an enforcement notice, if warranted.

Section 207. PROCEDURAL CHALLENGES

The Pennsylvania Municipalities Planning Code specifies procedures that are to be used to adopt and amend this Ordinance. These procedures are designed to offer ample opportunities for public participation and to make the ordinance as fair as possible. It is feasible, however, that this ordinance or any one of its amendments was not adopted according to these procedures, and thus, is procedurally flawed. The purpose of this section is to give landowners and other parties aggrieved by such a flaw, as well as officers and agencies of the Borough itself, a process through which they may challenge the procedural validity of the ordinance or amendment. This process may be used to guarantee adequate public participation and fairness in the adoption process, and to overturn any unfair ordinances or amendments.

A. Where Procedural Challenges may be Heard

The parties named in Section 206 (“Enforcement”) may file a procedural challenge with either the relevant court of common pleas or the Zoning Hearing Board. Procedural challenges taken to the Zoning Hearing Board may have to follow the rules established by Section 210 (“Time Limitations”), and the Board shall hear all such challenges according to the procedure given in Section 213, “The Zoning Hearing Board.”¹

B. Time Limitations

All such challenges shall be raised by an appeal taken within 30 days of the effective date of enactment for the involved ordinance or amendment.

Section 208. SUBSTANTIVE CHALLENGES

The Constitution of the United States, the Constitution of the Commonwealth of Pennsylvania, and various federal and state laws limit what this Ordinance may regulate, so that the rights and property of Ebensburg Borough, Cambria Township, and Jackson Township’s citizens and neighbors are protected. It is feasible, however, that one or more of this Ordinance’s provisions violate these laws, and are thus, substantively flawed.

The purpose of this section is to give landowners and other parties aggrieved by such a flaw, as well as officers and agencies of the Borough itself, a process through which they may challenge the substantive validity of the involved provision. This process may be used to insure that this Ordinance respects the laws of the United States and the Commonwealth, as well as to overturn any illegal or unconstitutional provisions.

A party named above who wishes to challenge the substantive validity of this Ordinance has the following two choices. A person or party who wishes to challenge the substantive validity of this Ordinance because he or she is aggrieved by a use or development permitted on another person’s land must initially select choice “2”. However, all of the other named parties are free to choose from either option.

1. applying to the Borough Council for a “landowner curative amendment”, or
2. requesting that the Zoning Hearing Board hear a substantive validity challenge.

¹Note that the Zoning Hearing Board’s decision may be appealed to the relevant court of common pleas.

Landowner curative amendments and substantive validity challenges are essentially the same type of appeal, with some minor procedural differences. A validity challenge must be in writing and contain reasons for the challenge, but unlike the curative amendment, does not have to contain materials describing the proposed development or amendments.

A. Landowner Curative Amendments

Applications for a landowner curative amendment shall be governed by the rules outlined below.

- 1. All such applications shall be made to the Zoning Officer, who shall forward them to the Borough Council. These applications may be subject to the time limitations of Section 210, "Time Limitations."**
- 2. All such applications shall be made in writing, and shall contain the following:**
 - a. the reasons why the Ordinance should be amended as proposed,**
 - b. plans and explanatory materials describing the use or development proposed by the landowner in lieu of the use or development allowed by this ordinance (these plans must be of sufficient quality and detail to allow an evaluation of this ordinance in light of the proposed use or development), and**
 - c. the amendment or amendments that the landowner proposes to cure the alleged defects in this ordinance.**
 - d. The Borough Council shall hear and decide on applications for landowner curative amendments as required in Section 214, "The Borough Council."**
 - e. Appeals to the Council's decision shall be taken to the court of common pleas in the judicial district where the involved property is located.**

B. Substantive Validity Challenges

Requests for a hearing before the Zoning Hearing Board on a substantive validity challenge to this ordinance shall be governed by the rules below.

- 1. All such requests shall be made to the Zoning Officer, who shall forward them to the Zoning Hearing Board. These applications may be subject to the time limitations of Section 210, "Time Limitations."**
- 2. All such requests shall be made in writing, and shall contain the reasons for the involved challenge.**
- 3. The Zoning Hearing Board shall decide (1) whether or not to hear such a request, and (2) whether or not to grant such a request according to the requirements of Section 213, "The Zoning Hearing Board."**
- 4. Appeals to the Zoning Hearing Board's decision shall be taken to the court of common pleas in Cambria County.**

When (1) a landowner curative amendment proposal is approved by Borough Council, (2) a substantive validity challenge is sustained by the Zoning Hearing Board, or (3) the relevant court sustains either of these actions in a final appeal, the involved developer may (1) file a subdivision application within two years and (2) apply for a zoning permit within one year without losing the rights granted to him in the relevant validity challenge to a subsequent change or amendment in any land use ordinance.

Section 209. APPEALING THE DETERMINATION OF THE ZONING OFFICER

Any landowner or party who is affected by a zoning-related determination of the Zoning Officer may appeal this determination to the Zoning Hearing Board. Such appeals may concern (but are not limited to):

1. the granting or denial of any permit, including a failure to act on the application,
2. the issuance of any enforcement notice via Section 206, “Enforcement,” or,
3. the registration or refusal to register any non-conforming use, structure, or lot.

Time limitations may be placed on such appeals by Section 210, “Time Limitations.” The Zoning Hearing Board shall hear all such appeals according to the provisions of Section 213, “The Zoning Hearing Board.”

Section 210. TIME LIMITATIONS

If the period of time in which a landowner could file an appeal concerning a decision that was adverse to his or her proposed use or development was unlimited, then the difficulty and costs of enforcing this ordinance could become prohibitively high. Likewise, if the period of time in which a party who opposed this proposed use or development could file an appeal concerning a decision that approved the use or development was unlimited, then the costs of development could become prohibitively high. The purpose of this section is to avoid both of these situations by limiting the amount of time that both landowners and aggrieved parties have to file for a hearing before the Zoning Hearing Board or (where applicable) the Borough Council when a proposed use or development is involved.

- A. The rules of this section, which are listed in the following paragraph titled “Time Limitation Rules”, only apply to:
1. a landowner who wishes to appeal a determination by the Zoning Officer not to grant a zoning permit for his or her proposed construction, reconstruction, alteration, or other physical development (see Section 202, “Zoning Permits”),
 2. an aggrieved party who wishes to appeal a determination by the zoning Officer to grant a zoning permit to another party’s proposed construction, reconstruction, alteration, or other physical development (see Section 202, “Zoning Permits”),
 3. a landowner or an aggrieved party who wishes to appeal a determination by the Zoning Officer concerning the non-conforming status of a structure, land use, or lot (see Article III, “Non-conforming Buildings and Uses”),

4. a landowner who wishes to contest the Zoning Officer's issuance of enforcement notice for his or her property (see Section 206, "Enforcement"),
5. a landowner who wishes to reverse or limit a determination that (1) was made by the Zoning Officer according to the provisions of this ordinance, and (2) opposes the landowner's proposed use or development², by challenging the procedural or substantive validity of this ordinance before either the Zoning Hearing Board or (where applicable) Borough Council (see Section 207, "Procedural Challenges," or Section 208, "Substantive Challenges"), and
6. an aggrieved party who wishes to reverse or limit a determination that (1) was made by the Zoning Officer according to the provisions of this ordinance, and (2) approves a proposed use or development on another party's land by challenging the procedural or substantive validity of this ordinance before either the Zoning Hearing Board or (where applicable) Borough Council (see Section 207, "Procedural Challenges," or Section 208, "Substantive Challenges").

B. Time Limitation Rules

1. If the reason behind a hearing before either the Zoning Hearing Board or Borough Council is to reverse or limit the Zoning Officer's "determination"³ of a third party's proposed use or development in any manner⁴, then the request for that hearing must be filed no later than 30 days after the involved approval was given. If the person filing such a request has succeeded to his or her interest after the involved approval was given, then he or she shall be bound by the knowledge of his predecessor in interest.
2. All appeals from decisions⁵ that are adverse to the involved landowner shall be filed with the involved body within 30 days of the notice of this decision.

Section 211. APPEALS TO COURT

The final adjudication of any Borough officer or body is appealable to the court of common pleas of Cambria County. Nothing in this ordinance shall be construed to deny an appellant the right to bypass either the Zoning Hearing Board or Borough Council, and proceed directly to court, where appropriate. Furthermore, nothing in this ordinance shall be construed to deny the right to bypass the procedures for challenging the procedural or substantive validity of this ordinance that are given in this article.

Section 212. THE ZONING OFFICER

²Such a determination might involve the refusal of a zoning permit or a grant of nonconformity status.

³A "determination" might be the issuance of a zoning permit or the grant of nonconformity status.

⁴This includes procedural or substantive validity challenges. In these cases, the 30 day period shall begin when the proposed construction, reconstruction, alteration, or other physical development receives its zoning permit.

⁵Such a "decision" might be the issuance of an enforcement notice or the denial of a zoning permit or nonconformity status.

A Zoning Officer shall be appointed in accordance with the administrative code of the Borough. As such, he or she is a non-elected member of the Borough's executive branch. The Zoning Officer is hereby given the duty, power, and authority to enforce the provisions of this Ordinance as provided for in Section 212, "The Zoning Officer", and in accordance with requirements of this Ordinance, record and file all applications for permits with accompanying plans and documents, may identify and register all non-conforming uses and non-conforming structures, and make such reports as may be required. All documents, applications, permits and certificates required by and issued during the enforcement of this Ordinance shall be permanently maintained by the Zoning Officer.

The provisions of this section only apply to the Zoning Officer and the parties with which he or she comes into contact.

A. Appointment

A Zoning Officer shall be appointed by the Borough Council to administer this Ordinance. This officer shall:

1. not hold any elected offices within the Borough
2. meet qualifications established by the Borough
3. be able to demonstrate to the satisfaction of the Borough Council a working knowledge of municipal zoning, and
4. be familiar with both this Ordinance and the Multi-Municipal Comprehensive Plan.

B. Powers

The zoning officer shall enforce this Ordinance in accordance with its literal terms. He or she shall not have the power to permit any construction, use, or change of use which does not conform to the provisions of this ordinance.

C. Duties of the Zoning Officer

1. The Zoning Officer shall receive, process, file copies of, and make decisions on all applications for zoning permits as required by Section 202, "Zoning Permits." Where such a permit is denied, the Zoning Officer shall inform the applicant, in writing, of the basis for this denial, including a reference to the specific ordinance section.
2. The Zoning Officer shall receive, process, file copies of, forward, and schedule hearings for all applications for hearings before the Zoning Hearing Board.
3. The Zoning Officer shall inform the Borough Council and the Planning Commissions concerning applications for conditional uses;
4. The Zoning Officer shall send enforcement notices to alleged violators of this Ordinance as specified in Section 206, "Enforcement." Such notices shall be sent via certified mail, return receipt requested, or personally served to provide proof that the notice was received.

Section 213. THE ZONING HEARING BOARD

The Zoning Hearing Board of the Borough of Ebensburg is a quasi-judicial body within the municipal government. It has no legislative power, has no enforcement power, and cannot make or modify zoning policy. It is instead a judicial-like body that helps to assure fair and equitable application and administration of this Ordinance. The purposes of this section are to establish the Board, outline its duties, and prescribe procedures that it is to use in fulfilling its duties.

§A of this section explains how the Board is to be established, while §B details how its members may be removed. §C explains how the Board is to be organized and provides some guidance concerning how it is to operate. §D discusses how the Board may spend money. §E lists the duties of the Board, and provides some rules on how these duties are to be carried out. §F notes that the Board's decisions may be appealed to the relevant court of common pleas.

The Zoning Hearing Board must use the same procedure in each of its hearings, regardless of which one of its duties from §E that hearing falls under. Throughout this Ordinance, provisions that concern the Zoning Hearing Board have remarked that it is to hear the involved case "via the procedure outlined in Section 213." This procedure is provided in §G.

The provisions of Section 212 only apply to the Zoning Officer and the parties with which it comes into contact.

A. Formation of the Zoning Hearing Board

The Zoning Hearing Board of the Borough of Ebensburg shall consist of three (3) residents of the Borough appointed by Borough Council via a resolution. Each member's term of office shall be three years, and shall be fixed so that the term of no more than two members shall expire each year. Members of the Zoning Hearing Board shall hold no other office in the Borough government.

The Borough Council may also appoint by resolution from one to three residents of the Borough to serve as alternate members of the Board. The term of office of an alternative member shall be one year. When an alternate is seated on the Board (see §C below), he or she shall be entitled to participate in all proceedings to the same extent as any other member of the Board. However, alternates shall not be entitled to vote as a member of the Board or be compensated unless they have been designated as a voting alternate member as required by §C below. Alternates shall also hold no other office in the Borough government.

B. Removal of Zoning Hearing Board Members

Any board member may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of the Borough Council. However, the member must receive notice of the intent to take such a vote at least 15 days before the actual vote is taken, and he or she may request that a hearing be held in connection with the vote.

C. Organization of the Board

The Zoning Hearing Board shall elect officers from its own membership. Such officers shall serve annual terms and may succeed themselves.

For the conduct of any hearing and the taking of any action or votes, a quorum shall be no less than a majority of all of the members of the Board.

If, for reasons of absence or disqualification, a quorum is not reached, the chairman of the Board shall designate enough alternates as voting alternate members to reach the quorum. Any alternate so designated shall continue to serve on the Board in all proceedings involving the matter or case for which he or she was designated until the Board has made a final determination on that matter or case. Such designations shall be made on a rotating basis among all alternates on the order of declining seniority.

Tie votes shall be interpreted as maintaining the status quo in the matter at hand. For instance, special exceptions are denied when the Board is tied.

The Board may make, alter, and rescind rules and forms for its procedure, consistent with the requirements of this ordinance and the laws of the Commonwealth of Pennsylvania. The Board shall keep full public records of its business⁶, and shall submit a report of its activities to Borough Council if requested.

D. Duties of the Zoning Hearing Board

The Board's duties shall be as follows. All hearings conducted in pursuit of these duties shall be held according to the rules of §G below.

- 1. The Board shall hear substantive challenges to the validity of this Ordinance and its amendments in accordance with Section 208, "Substantive Challenges."**
 - a. Based on the testimony presented at the hearing or hearings, the Board shall determine whether the challenged ordinance, ordinance provision, or map is defective as alleged by the applicant. If the challenge is found to have merit, then the final decision of the Board shall include recommended amendments to the challenged ordinance which will cure the involved defects.**
 - b. In reaching its decision on a substantive challenge to validity of this Ordinance or its amendments, the Board shall consider:**
 - (1) the impact of the proposal on roads, sewer facilities, water supplies, schools, and other public service facilities;**
 - (2) if the proposal is for a residential use, the impact of the proposal on regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the Ordinance or map;**
 - (3) the suitability of the site for the intensity of use proposed, considering the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources, and other natural features;**
 - (4) the impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources, and natural features, the degree to which these**

⁶Such records shall be the property of the Borough.

are protected or destroyed, the tolerance of the resources to development, and any adverse environmental impacts; and

- (5) the impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.
- c. The challenge shall be deemed to be denied if the Board (1) votes against the challenge, (2) fails to commence the hearing within 60 days, or (3) fails to act on the application within 45 days of the close of the last involved hearing. In the latter two of these cases, the involved time limit may be extended by mutual consent of the applicant and the municipality. If no such consent is reached, the challenge shall be denied on the day after the last day that the Board could have taken the involved action.
2. The Board shall hear procedural challenges to the validity of this Ordinance or one of its amendments in accordance with Section 207, "Procedural Challenges."
3. The Board shall hear appeals from the zoning-related determinations of any municipal officer, including the zoning officer, in accordance with Section 209, "Appealing the Determination of the Zoning Officer."
4. The Board shall hear appeals from the determinations of the municipal engineer with reference to any floodplain provisions of any land use ordinance.
5. The Board shall hear applications for variances in accordance with Section 204, "Variances."
6. The Board shall hear applications for special exceptions in accordance with Section 205, "Special Exceptions." In granting a special exception, the Board may attach any reasonable conditions and safeguards as it may deem necessary to implement the purposes of this ordinance.
7. The Board shall hear applications to expand a non-conforming land use or to change one non-conforming land use to another in accordance with Article III, "Non-conforming Buildings and Uses"
8. For land uses not listed under any "Permitted Use", or "Special Exception", Sections of Article V ("Zone Provisions"), the Board shall determine (1) which zoning districts they shall be allowed in, (2) how they shall be allowed in those districts (i.e., as permitted principal uses, permitted accessory uses, etc.), and (3) which sections of the remainder of the ordinance apply to them. The Board may ask the Planning Commission for a recommendation on these matters.
9. The Board shall hear all other applications and appeals that are assigned to it by this Ordinance or the laws of the Commonwealth of Pennsylvania.

E. Appeals

All decisions rendered by the Zoning Hearing Board may be appealed to the court of common pleas of Cambria County, so long as these appeals are filed no more than 30 days after the Board renders its decision.

F. Procedure

In fulfilling its duties listed under §E above, the Board shall follow the rules and procedures specified for it below.

1. Time Limitations

- a. Each hearing that is to be held shall begin within 60 days of the date that the request for that hearing was filed.
- b. The Zoning Hearing Board or the Hearing Officer (as the case may be) shall render a written decision or (when no decision is called for) make written findings on the application within 45 days of the end of the hearing.
- c. If the hearing is conducted by a hearing officer (see §C above), and there has been no stipulation that his or her decisions or findings are final, the Zoning Hearing Board shall make his or her report and recommendations available to all of the involved parties within 45 days of the end of the hearing. The parties are then entitled to make written responses to this report. The Zoning Hearing Board shall make a final decision after reading these responses, but no later than 30 days after the Hearing Officer's report is issued.
- d. Where the Zoning Hearing Board fails to render this decision within the required period, or where the Board fails to hold the hearing within the required period, the decision shall be deemed to have been rendered in favor of the applicant or appellant (as the case may be), unless either (1) the applicant/appellant has agreed in writing or on the record to an extension of time, or (2) the hearing concerns a challenge to the substantive validity of the ordinance⁷ (see Section 208, "Substantive Challenges"). When a deemed decision is rendered, the Board shall give notice of this within 10 days of the last day that it could have met to render a decision to the parties and at the locations listed under "Required Public Notice" below. If the Board fails to provide such notice, the applicant/appellant may do so. Protesting or aggrieved parties cannot obtain a deemed decision.

2. Required Public Notice

- a. The Borough Secretary shall publish a notice containing the information listed under "Contents of Required Public Notice" below once each week for two successive weeks in a newspaper of general circulation in the Borough. The first of these publications shall not be more than 30 days before the date of the hearing, and the second shall not be less than 7 days before the date of the hearing.
- b. Written notice shall be provided by the Zoning Officer and mailed to (1) the applicant, (2) the Planning Commission, (3) all residents and owners of contiguous properties to the subject site, (4) any party that has requested such notice and (5)

⁷Where the Zoning Hearing Board fails to commence a hearing on the substantive validity of the ordinance within 60 days of the involved request, or where the Board fails to act on such a hearing within 45 days of its closure, the challenge shall be deemed to be valid.

conspicuously posted on the involved tract of land at least one week prior to the hearing. The timing and manner of this notice shall follow rules adopted by the Zoning Hearing Board.

3. Contents of the Required Public Notice

- a. The required notice shall be written by the Officer in plain language and shall state that the Zoning Hearing Board of the Borough of Ebensburg will hold a public hearing on the appropriate date, at the proper timing, and pertinent location.
- b. The name of the applicant or appellant (as the case may be) shall be given, as well as the nature of the hearing for which a permit is sought, and where and when written comments will be received concerning the request. The notice shall also state that the Borough shall promptly make a copy of the application and supporting documentation available for inspection by an interested person at the Borough Building.
- c. The location or locations of the involved property or properties shall be provided
- d. All applicable sections of the Ordinance shall be cited.
- e. If the involved hearing involves a substantive challenge to the validity of this Ordinance or one of its amendments, then the notice shall state that the validity of the Ordinance is being questioned.
- f. The following statement shall be included: “All persons having an interest in these matters are encouraged to attend this meeting. Persons with a disability who wish to attend this hearing and require an auxiliary aid, service, or other disability accommodation to participate in the proceedings can be accommodated by contacting the Borough Manager’s Office.”

4. Stays of Proceedings

- a. An appeal to the Zoning Hearing Board automatically stops all affected land development. However, if the Zoning Officer certifies that such a halt would cause an imminent danger to life or property, then the development may be stopped only with a restraining order granted by the Zoning Hearing Board or by any court with competent jurisdiction, following notice to the Zoning Officer.
- b. An applicant or appellant may petition a court of competent jurisdiction to force those contesting an authorized permit or approval to either post bond or drop their appeal. The burden of proof shall be on the applicant/appellant to prove that the appeal is frivolous. If the party contesting an authorized permit or approval refuses to post bond as ordered by the involved court, appeals to an appellate court, and loses, then that party is liable for all reasonable costs, expenses, and attorney fees incurred by the applicant in the Hearing.
- c. The parties to the hearing shall be (1) the Borough, (2) any person affected by the application or appeal who has made timely appearance of record before the Board, and (3) any other person, including civic or community organizations, permitted to appear by the Board. The Board may require that everyone who wishes to be

considered a party to a hearing fill out a form that asks (1) the person's name and address, (2) who he or she is representing, and (3) whether or not he or she desires a copy of any final decision in the case.

5. Fees

- a. Through a separate resolution, the Borough Council may prescribe reasonable fees for a Zoning Hearing Board hearing which may include (1) compensation for the secretary and members of the Board, (2) public notice and advertising costs, (3) necessary administrative overhead connected with the hearing, and (4) one half the cost of a stenographer.**
- b. The cost of the original transcript shall be paid by the Board if the original is ordered by the Board or the Hearing Officer, and shall be paid by the applicant/appellant if he or she orders it.**
- c. Additional copies shall be paid for by the parties requesting them. Fees may not compensate for the legal expenses of the Board. Furthermore, fees may not be used to compensate engineering, architectural, planning, or other technical consultants or expert witnesses.**

6. Zoning Hearing Board's Solicitor

- a. The Zoning Hearing Board may hire its own solicitor within the budgetary constraints of the Borough.**
- b. The Zoning Hearing Board's solicitor shall be a different person, and shall be from a different law firm, than the Borough's Solicitor.**

7. Conducting the Hearing

- a. Either the Zoning Hearing Board or a Hearing Officer (see §C above) shall conduct all hearings.**
- b. A stenographic record that conforms with civil trial transcripts must be taken in all hearings. Furthermore, written minutes shall be taken of all Board meetings. The substance of all official actions, the names of people who appear officially, and the subject of their testimony must be recorded.**
- c. Each party has the right to be represented by counsel, to present and respond to evidence, and to cross-examine adverse witnesses on all relevant issues.**
- d. The chairman of the Zoning Hearing Board (if a Hearing Officer has not been appointed) or the Hearing Officer (if one has been appointed) has the power to administer oaths and issue subpoenas to compel both the attendance of relevant witnesses and the production of relevant papers. All testimony should be affirmed, as unaffirmed statements do not constitute legal evidence to make a record.**
- e. Formal rules of evidence do not apply to hearings. However, the Zoning Hearing Board may exclude any irrelevant, immaterial, or unduly repetitious evidence. Hearsay evidence, if not objected to, may be given its natural probative value. Yet,**

the Board has the power to reject even uncontradicted testimony if it finds this testimony to be lacking in credibility.

- f. In the time following the beginning of a hearing and prior to a rendering of the decision or findings, the Board shall not communicate with any party or party representatives unless all parties are given an opportunity to participate. No communication, reports, staff memoranda, or other materials, except advice from the Board's own solicitor, may be accepted or noticed by the Board unless all parties are given an opportunity to contest that information. The Board should not inspect the involved site or its surroundings during the hearings unless all parties are given an opportunity to be present. Any reports by the Zoning Officer shall be filed with all involved parties.
 - g. A case should not be postponed to a later date without substantial or compelling reasons, especially if the issue is of great concern and has attracted an audience. However, where (1) a new issue is raised for the first time at a hearing, and (2) the applicant/appellant had no notice of this issue, the hearing should be continued at a later date to give the applicant/appellant an opportunity to react properly. When a case is continued at a second hearing, a notice shall be prominently posted at the hearing site, and all involved parties must be notified.
8. Mediation

- a. Mediation is "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" (from The Pennsylvania Municipalities Planning Code). Mediation is intended to supplement, but not replace, the procedures for Zoning Hearing Board hearings specified here. It can provide a potentially less costly mechanism for resolving land use disputes, as well as a less polarized process.
- b. In no case may the Zoning Hearing Board initiate mediation or participate as a mediating party.
- c. Participation in mediation must be voluntary, and the involved parties must agree to (1) funding, (2) the selection of a mediator, (3) the completion of mediation (including the time limits for such a completion), (4) the suspension of the time limits authorized by this ordinance and the Pennsylvania Municipalities Planning Code⁸, (5) the identification of all parties, (6) the determination of whether some or all sessions shall be open or closed, and (7) the issuance of mediation solutions in writing, subject to review and approval by the decision-making body.
- d. No offers or statements made in the mediation sessions, excluding the final written mediated agreement, can be admissible as evidence in any subsequent judicial or administrative proceedings.

⁸The suspension of these time limits must be agreed to in writing by the involved parties, and by both the applicant/appellant and the municipality (not the Zoning Hearing Board), even if neither one of these two is a party to the mediation.

9. Making a Decision

- a. The decision or, where no decision is called for, the findings shall be made by the Zoning Hearing Board. However, the applicant/appellant and the Borough may agree before this decision to waive this and instead accept the decision or findings of the Hearing Officer as final (if a Hearing Officer has been appointed).
- b. In voting on a final decision, the vote cast by each member of the Board (or the Hearing Officer, where appropriate) shall be made publicly.
- c. Where an application or appeal is contested or denied, the resulting decision must be accompanied by a finding of fact, the conclusions based on these facts, and the reason that such conclusions were drawn. This will show that the decision was reasoned, and not arbitrary. References to any provisions of any ordinance, rule, or regulation relied on for any conclusion must be made, along with the reason that the conclusion is appropriate for the particular case at hand.
- d. Even where an application or appeal is not contested, the resulting decision should be accompanied by a statement of findings or an opinion that is detailed enough to substantiate the Zoning Hearing Board's decision.
- e. A copy of the final decision, or where no decision is called for, the findings must be delivered or mailed to the applicant/appellant no later than the day after the date of the report.
- f. All other parties to the hearing, as well as all of the parties that are listed under "Required Public Notice" above, shall be sent a brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

Section 214. THE BOROUGH COUNCIL

The Borough Council of Ebensburg Borough is the chief governing body of the Borough and is the only body that can set the Borough's zoning policy. The Council of course, has many duties. The purpose of this section is to address only Council zoning-related duties, outlining these duties and prescribing the procedures that Council is to use in fulfilling them.

§A of this section lists Council's major duties under this Ordinance and specifies some rules that apply to each. §A.1 specifies the process by which Council may amend this ordinance, while §A.2 explains how Council is to hear and decide on landowner curative amendments to this ordinance (see Section 208, "Substantive Challenges"). §A.3 explains the procedure for municipal curative amendments. A municipal curative amendment can be used to fix a portion of this ordinance that is substantially invalid. It has a major advantage over fixing invalid provisions via a plain amendment (i.e., the procedure described in §A.2) in that the Borough need not entertain any substantive challenges to these provisions (see Section 208, "Substantive Challenges") during the municipal curative amendment process, which can save the Borough a significant amount of time and money.

The provisions of this section only apply to the Borough Council and the parties with which it comes into contact on zoning-related issues.

A. Zoning-Related Duties

The Elected Official's major duties under this Ordinance, as well as some rules that apply to these duties, are provided below.

1. Enacting Amendments

The Borough Council shall enact all amendments to this Ordinance that are not landowner curative amendments, at Council's discretion, according to the rules below.

- a. Before voting on the enactment of such an amendment, the Borough Council shall hold a public hearing.**
- b. Public notice of this hearing shall be provided according to the rules below.**
 - (1) The public notice shall include the time and place of the hearing, the purpose of the hearing, the full text or a brief summary of the proposed amendment prepared by the Planning Commission, the date of the publication, and a statement that reads "All persons having an interest in these matters are encouraged to attend this meeting. Persons with a disability who wish to attend this hearing and require an auxiliary aid, service, or other disability accommodation to participate in the proceedings can be accommodated by contacting the Borough Manager's Office."**
 - (2) If a summary of the proposed amendment is included in the public notice instead of its full text, then (1) the notice shall include a place within the municipality where copies of the full text may be examined without charge or copied at cost, (2) a copy of the full text shall be supplied to a newspaper of general circulation in the Borough at the time the public notice is published in that paper, and (3) an attested copy of the full text shall be filed in the Cambria County law library.**
 - (3) The public notice shall be published in a newspaper of general circulation once each week for two consecutive weeks. The first of these publications shall not be more than 60 days prior to passage or 30 days before the hearing. The second of these shall not be less than 7 days before either the hearing or passage.**
 - (4) If substantial changes are made in the proposed amendment before passage but after the involved public hearing, then a notice shall be published in a newspaper of general circulation within Ebensburg Borough at least 10 days prior to enactment that sets forth the provisions in reasonable detail together with a summary of the changes made. If these changes involve land that was previously not affected by the proposed amendment, then the above requirement shall be dropped, and the public hearing process shall begin again.**
 - (5) If the amendment at hand involves a zoning map change, then notice of the hearing shall be posted by the Borough at points deemed sufficient along involved tracts to notify potentially interested citizens. Such postings shall be made at least one week prior to the date of the hearing.**

- c. A proposed amendment shall be submitted to the county planning agency at least 30 days prior to the hearing so that the planning agency may submit its recommendations.
 - d. A proposed amendment shall be submitted to the county planning agency within 30 days after the enactment.
 - e. If the amendment was prepared by a group other than the planning commission, then Borough Council shall submit it to the planning commission at least 30 days prior to that amendment's hearing so that the planning commission may submit its recommendations.
 - f. The Borough may offer a mediation option as an aid in completing this section's proceedings. Mediation is described in Section 213, "The Zoning Hearing Board," letter "G."⁹
2. Curative Amendments

The Borough Council shall hear all applications for landowner curative amendments according to both the following rules and the provisions of Section 208, "Substantive Challenges."

- a. The Council shall commence a hearing on a proposed landowner curative amendment within 60 days of the filing of a complete application for that amendment.
- b. Public notice of this hearing shall be given according to the requirements for enacting amendments described above. This notice shall include (1) notice that the validity of the ordinance or map is in question, and (2) the place and times where a copy of the proposed amendment, including any plans or explanatory materials, may be examined by the public.
- c. Borough Council shall submit the proposed amendment to the planning commission at least 30 days prior to the hearing so that the planning commission may submit its recommendations.
- d. A proposed amendment shall be submitted to the county planning agency at least 30 days prior to the hearing so that the planning agency may submit its recommendations.
- e. A proposed amendment shall be submitted to the county planning agency within 30 days after that amendment's enactment.
- f. The Borough Council shall render a written decision within 45 days of the end of the hearing.

⁹The Borough Council shall be substituted for the Zoning Hearing Board as it applies to this section.

- g. The Borough Council may prescribe reasonable fees for such a hearing which may include (1) compensation for the Manager (2) public notice and advertising costs, (3) necessary administrative overhead connected with the hearing, (4) enacting amendments as described above, and (5) one half of the stenographer's fee. The cost of the original transcript shall be paid by the Borough if the original is ordered by the Borough, and shall be paid by the applicant if he or she orders it. Additional copies shall be paid for by the parties requesting them. Fees may not compensate for the legal expenses of the Council. Furthermore, fees may not be used to compensate engineering, architectural, planning, or other technical consultants or expert witnesses.**
- h. Conducting the Hearing**
- (1) A stenographic record that conforms with civil trial transcripts must be taken in all hearings. The substance of all official actions, the names of people who appear officially, and the subject of their testimony must be recorded.**
 - (2) Each party has the right to be represented by legal council, to present and respond to evidence, and to cross-examine adverse witnesses on all relevant issues.**
 - (3) The Borough Solicitor shall represent Borough Council, if requested. However, Council may retain an independent attorney to present the defense of the challenged ordinance.**
 - (4) The Council has the power to administer oaths and issue subpoenas to compel both the attendance of relevant witnesses and the production of relevant papers. All testimony should be affirmed, as unaffirmed statements do not constitute legal evidence to make a record.**
 - (5) Formal rules of evidence do not apply to these hearings. However, the Council may exclude any irrelevant, immaterial, or unduly repetitious evidence. Hearsay evidence, if not objected to, may be given its natural probative value. Yet, the Council has the power to reject even uncontradicted testimony if it finds this testimony to be lacking in credibility.**
 - (6) In the time following the beginning of a hearing and prior to a rendering of the decision or findings, the Council shall not communicate with any party or party representatives unless all parties are given an opportunity to participate. No communication, reports, staff memoranda, or other materials may be accepted or noticed by the Council unless all parties are given an opportunity to contest that information. The Council should not inspect the involved site or its surroundings during the hearings unless all parties are given an opportunity to be present. Any reports by the Zoning Officer shall be filed with all involved parties.**
 - (7) A case should not be postponed to a later date without substantial or compelling reasons, especially if the issue is of great concern and has attracted an audience. However, where (1) a new issue is raised for the first time at a hearing, and (2) the applicant had no notice of this issue, the hearing should be continued at a later date to give the applicant an opportunity to react properly. When a case is**

continued at a second hearing, a notice shall be prominently posted at the hearing site, and all involved parties must be notified.

i. Making a Decision

- (1) In voting on a final decision, the vote cast by each Council member shall be made publicly.**
- (2) In making its decision, Council shall consider (1) the proposed amendments, plans, and explanatory materials submitted by the applicant; (2) the impact of the proposal on roads, sewer facilities, water supplies, schools, and other public service facilities; (3) the impact of the proposal on regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions; (4) the suitability of the site for the intensity of use proposed (considering the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources, and other natural features); (5) the impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources; and (5) the impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.**
- (3) Where Council fails to render this decision within the required period, or fails to hold the hearing within the required period, the decision shall be deemed to have been rendered against the amendment. When a deemed decision is rendered in favor of the amendment, Council shall give notice of this within 10 days of the last day that it could have met to render a favorable decision.**
- (4) If Council determines that a validity challenge has merit, then it may either accept the applicant's landowner curative amendment, with or without revision, or adopt an alternative amendment that will cure the alleged defects in this ordinance.**
- (5) Where an application is denied, the resulting decision must be accompanied by a finding of fact, the conclusions based on these facts, and the reason that such conclusions were drawn. This will show that the decision was reasoned, and not arbitrary. References to any provisions of any ordinance, rule, or regulation relied on for any conclusion must be made, along with the reason that the conclusion is appropriate for the particular case at hand.**
- (6) Even where an application is not denied, the resulting decision should be accompanied by a statement of findings or an opinion that is detailed enough to substantiate the involved decision.**
- (7) A copy of the final decision must be delivered or mailed to the applicant no later than the day after the date of the report.**

j. The Council's decision may be appealed to the Zoning Hearing Board.

3. Municipal Curative Amendments

If Borough Council determines that this Ordinance or a portion thereof is substantially invalid or defected, then Council initiates a municipal curative amendment as follows.

- a. Council shall first (1) declare this ordinance or the substantially invalid portion or portions thereof to be invalid by formal action, and (2) propose to prepare a municipal curative amendment to overcome these invalidities.**
- b. Within 30 days of the declaration and proposal, Council shall: (1) make findings by resolution that set forth the declared invalidity or invalidities (this may include references to specific uses which are either not permitted or not permitted in sufficient quantity, to a class or use or uses which require revision, or to the entire Ordinance), and (2) begin to prepare and consider a curative amendment to the zoning ordinance that will correct these invalidities.**
- c. Within 180 days of the declaration and proposal, Council shall either (1) enact this curative amendment according to the provisions of §A.4 of this section, or (2) reaffirm the validity of this ordinance.**
- d. During this 180 day period, the Borough, its Council and its Zoning Hearing Board shall not be required to entertain or consider any substantive challenges to the validity of this ordinance (as laid out in Section 208, “Substantive Challenges”) that are based on the same invalidities declared under §3.b above.**
- e. The Borough may not initiate another municipal curative amendment for 36 months after the date that either the curative amendment is enacted or the validity of this ordinance is reaffirmed. However, if a new duty or obligation is imposed on the Borough by a statute or a Pennsylvania Appellate Court decision, then the Borough may ignore this rule in order to amend this ordinance to fulfill said duty or obligation.**

ARTICLE III - NONCONFORMING BUILDINGS AND LAND USES**Section 301. **PURPOSE****

The districts established by this Ordinance constitute the proper location for the specific enumerated uses, buildings, and other structures permitted therein. Within such districts, however, there exist nonconformities that were lawfully in existence before the effective date of this Ordinance, but are prohibited under the terms of this Ordinance. Future amendments to this Ordinance may be expected to create additional nonconformities.

The legitimate interests of those who established these nonconformities are recognized in this Ordinance by permitting such nonconformities to continue, subject to regulations for and limitations upon their completion, restoration, reconstruction, extension, and substitution. It is recognized, however, that nonconformities substantially and adversely affect the orderly development, maintenance, use, and taxable value of other property in the district, property that is itself subject to the regulations of this Ordinance. In order to secure eventual compliance with the standards of this Ordinance, it is, therefore, necessary to strictly regulate nonconformities and to prevent the re-establishment of nonconformities that have been discontinued.

Accordingly, the following sections divide nonconformities into five (5) classes and provide appropriate regulations for each class. These classes are:

1. Vacant lots smaller than the minimum size, width, depth, or any combination thereof required by this Ordinance.
2. Non-conforming buildings and structures used for a permitted use.
3. Non-conforming uses of conforming buildings and structures.
4. Non-conforming buildings and structures used for a non-conforming use.
5. Non-conforming use of land.

In the case of existing residential uses and structures in any non-residential zone, regulations for the geographically closest residential district for setbacks, height, areas and coverage shall apply.

Section 302. **NON-CONFORMING VACANT LOTS**

- A. A "pre-recorded non-conforming lot" is a lot consisting entirely of a tract of land that:
1. Has less than the prescribed minimum lot size, width, depth, or any combination thereof, for the district in which it is located.
 2. Is shown by a separately recorded plat or deed to be in fact separate from any adjoining property, and that existed as a separate parcel prior to June 1997, or was created subsequent to June 1997 in full compliance with the applicable zoning ordinance then in effect.
- B. A pre-recorded non-conforming lot may be developed, provided, however, that all other regulations prescribed for the zone by the Ordinance are complied with.

Section 303. NON-CONFORMING BUILDINGS AND STRUCTURES USED FOR PERMITTED USES

A lawfully existing building or other structure which contains a conforming use, but which does not comply with the applicable lot size requirements, building bulk limitations, or off-street parking requirements, may be continued so long as it remains otherwise lawful. Such buildings or other structures are referred to in this Article as "non-conforming buildings" and are subject to all of the following regulations:

A. Ordinary Repair and Maintenance

1. Ordinary maintenance and repair work, or repair and replacement of nonbearing walls, fixtures, wiring, or plumbing may be accomplished provided, however, that this paragraph shall not be deemed to authorize any violation of "2" through "4" of this section.
2. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of a non-conforming building, subject to the provisions of "4" of this section in accordance with the order of a public official who is charged with protecting the public safety and who declares such building to be unsafe and orders its restoration to a safe condition.

B. Repairs and Alterations

Repairs, maintenance, alterations, and modernization may be made to a non-conforming building or structure, except that no structural alteration shall be made in or to such building or structure except those required by law and except those making the building or structure and use thereof conform, or more closely conform, to the regulations of the district in which it is located.

C. Enlargements

No non-conforming building shall be enlarged or added in any manner unless such building and the use thereof shall thereafter conform to, or more closely conform to, the regulations of the district in which it is located.

D. Reconstruction

In the event that a non-conforming building or structure used for a permitted use is damaged or destroyed by any means, to such an extent that the cost of restoring it to its condition prior to damage or destruction exceeds fifty (50%) percent of the current replacement cost of the entire building, exclusive of foundations, such building and use shall not be restored unless it shall thereafter conform to the regulations for the district in which it is located.

E. Moving

No non-conforming building or other structure shall be moved in whole or in part for any distance whatsoever, to any other relocation on the same lot or any other lot, unless the entire building and the use thereof shall thereafter conform to the regulations of the district in which it is located after being moved.

F. Multiple Buildings on a Lot

In the event that a lot is occupied by two (2) or more buildings; and the use of the buildings is a permitted use under this Ordinance; and the owner desires to sell one (1) or more of said structures, thus requiring a lot split or subdivision plan to be prepared and approved by the Planning Commission, effectively making the remaining lots not comply with the Yard Area and Lot Coverage Requirements as set forth in this Ordinance, then said requirements shall not apply.

Section 304. CONFORMING BUILDINGS AND STRUCTURES USED FOR NON-CONFORMING USES

A lawfully existing non-conforming use of part or all of a building or structure may be continued subject to all of the following provisions:

A. Expansion of Non-conforming Use

A non-conforming use of a part of a building or structure may be expanded or extended into any other portion of such building or structure provided that such expansion or extension shall not in any case be detrimental to or tend to alter the character of the neighborhood and that approval therefor be granted by the Zoning Hearing Board.

B. Change of Non-conforming Use

A non-conforming use all or partially conducted in a structure or structures may be changed to another non-conforming use only upon determination by the Zoning Hearing Board, after public hearing, that the proposed new use will be more conforming to its neighborhood and surroundings than the use it is to replace. In determining such relative conformity, the Board shall review the written report of the Zoning Officer, which may include the recommendations of the Planning Commission. This report shall take into consideration such factors, among others, as traffic generated, nuisance characteristics, such as emission of noise, dust, odors and smoke, creation of vibrations and fire hazards, the hours and manner of operation. The Zoning Officer may request the assistance of other applicable Borough agencies in preparing his report.

C. Discontinuance of Non-conforming Use

A use occupying a building or structure, not conforming to the regulations of the district in which it is located that is discontinued during any continuous period of twelve (12) months, shall not be continued and said building or structure shall only be occupied by a use which conforms to the district in which it is located.

D. Reconstruction

In the event that a conforming building or structure containing a non-conforming use is damaged or destroyed by any means, voluntary or involuntarily, said building may be restored. If the owner chooses to reconstruct the conforming building or structure the non-conforming use must be reinstated within 24 months.

E. Moving

No building or other structure that is devoted in whole or in part to a non-conforming use, shall be moved in whole or in part for any distance, whatsoever, to any other lot unless the entire building or other structure and the use thereof shall thereafter conform to the regulations of the district in which it is located after being so moved. Moreover, no non-conforming use of land shall be moved, in whole or in part for any distance whatsoever, to any other location on the same or any other lot unless such use shall thereafter conform to the regulations of the district in which it is located after being moved.

Section 305. NON-CONFORMING BUILDINGS AND STRUCTURES USED FOR NON-CONFORMING USES

A lawfully existing non-conforming building or other structure which contains a lawfully existing non-conforming use of part or all of said building or structure may be continued subject to all the following provisions:

A. Ordinary Repair and Maintenance of Non-conforming Building or Structure

- 1. Ordinary maintenance and repair work, or repair and replacement of nonbearing walls, fixtures, wiring, or plumbing may be accomplished provided, however, that this paragraph shall not be deemed to authorize any violation of "2" through "8" of this section.**
- 2. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of a non-conforming building, subject to the provisions of "7" of this section in accordance with the order of a public official who declares such building to be unsafe and order its restoration to a safe condition.**

B. Repairs and Alterations to a Non-conforming Building or Structure

Repairs, maintenance, alterations, and modernization may be made to a non-conforming building or structure, except that no structural alteration shall be made in or to such building or structure, except those required by law, and except those making the building or structure and use thereof conform, or more closely conform, to the regulations of the district in which it is located.

C. Enlargements of Non-conforming Building or Structure

No non-conforming building or structure shall be enlarged or added to in any manner unless such building or structure shall thereafter conform to, or more closely conform to, the regulations of the district in which it is located.

D. Expansion of Non-conforming Use

A non-conforming use of a part of a non-conforming building or structure may be expanded or extended into any portion of such building or structure provided that such expansion or extension shall not in any case be detrimental to or tend to alter the character of the neighborhood and that approval therefore be granted by the Zoning Hearing Board.

E. Change of Non-conforming Use

A non-conforming use all or partially conducted in a non-conforming structure or structures may be changed to another non-conforming use only upon determination by the Zoning Hearing Board, after public hearing, that the proposed new use will be more conforming to its neighborhood and surroundings than the use it is to replace. In determining such relative conformity, the Board shall review the written report of the Zoning Officer, which may include the recommendations of the Planning Commission. This report shall take into consideration such factors, among others, as traffic generated, nuisance characteristics, such as emission of noise, dust, odors, and smoke, creation of vibrations and fire hazards, the hours and manner of operation. The Zoning Officer may request the assistance of other applicable Borough agencies in preparing his report.

F. Discontinuance of Non-conforming Use

A use occupying a non-conforming building or structure, not conforming to the regulations of the district in which it is located that is discontinued during any continuous period of twelve (12) months, shall not be continued and said building or structure shall only be occupied by a use which conforms to the district in which it is located.

G. Reconstruction

In the event that a non-conforming use within a non-conforming building or structure damaged or destroyed by any means, to such an extent that the cost of restoring it to its condition prior to damage or destruction exceeds fifty (50%) percent of the current replacement cost of the entire building, exclusive of foundations, such building and use shall not be restored unless it shall thereafter conform to the regulations for the district in which it is located.

H. Moving

No non-conforming building or other structure that is devoted in whole or in part to a non-conforming use, shall be moved in whole or in part for any distance, whatsoever, to any other lot unless the entire building or other structure and the use thereof shall thereafter conform to the regulations of the district in which it is located after being so moved. Moreover, no non-conforming use of land shall be moved, in whole or in part for any distance whatever, to any other location on the same or any other lot unless such use shall thereafter conform to the regulations of the district in which it is located after being moved.

I. Multiple Buildings on a Lot

In the event that a lot is occupied by two (2) or more buildings; and the use of the buildings is a permitted use under this Ordinance; and the owner desires to sell one (1) or more of said structures, thus requiring a lot split or subdivision plan to be prepared and approved by the Planning Commission, effectively making the remaining lots not comply with the Yard Area and Lot Coverage Requirements as set forth in this Ordinance, then said requirements shall not apply.

Section 306. NON-CONFORMING USE OF LAND

The non-conforming use of land may be continued subject to all of the following provisions:

A. Expansion of Use

A non-conforming use of land may be expanded provided that such expansion not be detrimental to or tend to alter the character of the neighborhood and that approval therefore be granted by the Zoning Hearing Board.

B. Discontinuance of Use

A use not conforming to the regulations of the district in which it is located, prior to the Ordinance's date of enactment, which is discontinued and is not renewed during any continuous period of twelve (12) months, shall not be renewed except by a use, which conforms to the use regulations of the district in which the land is located.

ARTICLE IV – DESIGNATION OF ZONES

Section 401. **PURPOSE**

The purpose of this Article is to constitute policies that involve and affect all or a majority of the Zoning Districts in the Borough of Ebensburg Zoning Ordinance. The Article provides for the designation of the Zoning Districts, the establishment of the Zoning Map and the district boundaries interpretation procedure as well as annexation.

Section 402. **ZONING DISTRICTS**

For the purpose of this Ordinance, the Borough is hereby divided into six (6) Zoning Districts, which shall be designated as follows:

| ZONE/AREA DESIGNATION | CATEGORY | TITLE |
|-----------------------|------------------|--------------------------------|
| R-SH | Residential | Single Household Residential |
| R-MH | Residential | Multiple Household Residential |
| MX-VC | Mixed Use | Mixed Use- Village Commercial |
| CBD | Commercial | Central Business District |
| O-C | Open Space | Open Space/Conservation |
| HCO | Historic Overlay | Historic Character Overlay |

Section 403. **ZONING MAP**

The boundaries of the Zoning Districts shall be shown upon the Map attached to and made part of this Ordinance, which shall be designated "Borough of Ebensburg Zoning Map". The said Map and the entire notation, references, and other data shown thereon are hereby incorporated by reference into this Ordinance as if all were fully described herein.

Section 404. **BOUNDARIES BETWEEN DISTRICTS**

Zone boundary lines are intended to follow street, alley, or public rights-of-way, center lines, railroad rights-of-way, streams, and lot or property lines as they exist on plats of record at the time of the passage of this Ordinance. Whenever any street, alley, or other public right-of-way is vacated, the one adjoining each side of such street, alley, or public right-of-way shall be automatically extended to the center of such vacation.

Section 405. **INTERPRETATION OF BOUNDARIES**

When a district boundary line divides a lot, held in single and separate ownership at the effective date of this Ordinance, the regulations of the district, which contains the majority of the lot, will apply.

Section 406. ANNEXATION

Where land area has become a part of the Borough by Annexation, the same shall automatically be classed as being in the "R-SH, Single Household Residential" Zone until such classification shall have been changed by an Amendment to the Ordinance as provided herein. The process for such Amendment shall begin within sixty (60) days of the Annexation.

Section 407. FLOODPLAIN AREAS - USES

Where a parcel of land in any of the five (5) Zoning Districts has been identified as being situate in a Floodplain Area as defined by the Federal Emergency Management Agency (FEMA) and indicated on the Flood Boundary and Floodway Maps, then the Floodplain Regulations of the Borough of Ebensburg shall also govern as regards to building and uses for any said parcel. However, the provisions and requirements of this Zoning Ordinance shall remain in full force and effect to the extent that they are more restrictive than the Floodplain Regulations.

ARTICLE V – ZONE PROVISIONS

Section 501 “R-SH” Single Household Residential

Section 501.1. PURPOSE

The purpose of this Zone is to provide areas within the Borough for the development of low density, primarily residential single-household detached homes, and to protect those areas presently developed in this manner. Note: Additional provisions may apply including, but not limited to, those listed in the “Supplementary Regulations” Section of this Ordinance.

Section 501.2. PERMITTED USES

A. Residential Uses:

1. Single-household detached dwellings.
2. Group Homes for a class of people protected by the Americans with Disabilities Act, the Fair Housing Act, or their Amendments.
3. Halfway Houses for a class of people protected by the Americans with Disabilities Act, the Fair Housing Act, or their Amendments.
4. Governmental Home Offices
5. Public School or Private School
6. Convent
7. Institutional Homes
8. Monastery
9. Rectory
10. Parish
11. Temporary Building and use for construction purposes
12. Planned Residential Developments
13. No-Impact Home Based Business (See Section 621 A)
14. Other accessory buildings and uses on the same lot, which are customarily incidental to residential use (including Amateur Radio Antennae)

B. Non-residential Uses:

1. Bus shelters
2. Essential services accessories only
3. Forestry activities
4. Open spaces
5. Public utility facilities accessories only
6. Accessory buildings and uses on the same lot, which are customarily incidental to the permitted non-residential uses in this Section

Section 501.3. SPECIAL EXCEPTIONS

Special Exceptions may be permitted where the Zoning Hearing Board finds after a public hearing that such uses will not create a hazardous condition and the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Zoning Ordinance, as it may deem necessary to implement the purposes of the Pennsylvania Municipalities Planning Code and this Zoning Ordinance.

- A. Minor-Impact Home Based Businesses: (See Section 621 B)**
- B. Cemeteries, Houses of Worship, Funeral Homes/Mortuary, Nursing Homes, Professional Offices and Services, Private and Civic Clubs, Public Libraries and Museums may be permitted as “Special Exceptions” where the Zoning Hearing Board finds after a public hearing that such uses will not create a hazardous condition and will otherwise meet the following requirements:**

1. (the following table)

| | | Minimum lot width at the front lot line | Minimum lot area |
|----------|--|--|-----------------------|
| A | Cemeteries | 200 feet | 18,000 sq. ft |
| B | House of Worship | 120 feet | 15,000 sq. ft |
| C | Funeral Homes/Mortuary | 100 feet | 10,000 sq. ft |
| D | Nursing Homes | 100 feet | 10,000 sq. ft |
| E | Private and Civic Clubs | 60 feet | 7,000 sq. ft. |
| F | Professional Offices & Services | 40 feet | 4, 000 sq. ft |
| G | Public Libraries and Museums | 120 feet | 15,000 sq. ft. |

2. The perceived scale of the proposal shall not detract from the residential character of the surrounding neighborhood;
3. The appearance of the building shall be residential in character, i.e. gabled rooflines, wood siding or brick, an articulated footprint, varied facade, etc.);
4. Proposed traffic will not severely change the residential nature of the neighborhood, and all public and private roads (existing and proposed) serving the site shall be of adequate design and width to handle such traffic;
5. There shall be no exterior loud speaker systems or other audible signals which can be heard at or beyond the property line, other than chimes or bells to signal the top & bottom of the hour, and only between 7 AM and 7 PM; and
6. Signs, parking and any other provisions of this Ordinance for the Zoning District shall be in compliance with the regulations for the district.

C. Day Care Facilities (In-home)

1. This Section shall apply to Child or Adult Day Care Facilities (In-Home) providing service for all or part of a 24-hour day for children less than 16 years of age, or for adults who are otherwise not capable of living on their own. The person primarily responsible for the Day Care Facility home shall be a full-time resident of the facility. Friends and/or family members who provide occasional, common babysitting services and places of worship furnishing babysitting during religious services (regardless if they accept donations or a nominal fee) shall not be deemed as operating a Day Care Facility.
 - a. A Day Care Facility shall only be permitted in single-family detached and semi-detached dwellings and shall not be permitted in any accessory buildings;

- b. The facility shall present to the Borough a copy of their required state license upon request of the Zoning Officer and documentation indicating compliance with all applicable state or local building and fire safety codes;
 - c. The owner/operator shall permit official Borough representatives to enter the property to inspect and verify compliance with the requirements of this Ordinance;
 - d. Child and Adult Day Care facilities shall not provide medical or personal care services that extend beyond assistance with bathing, diet, dressing, and medication prescribed for self administration unless licensed to provide such services;
 - e. Off-street parking and pick-up/drop-off areas shall be adequate and provided in a safe and secure manner to protect all persons using such spaces and in compliance with Section 502.6;
 - f. Day Care facilities shall provide documentation to local police and fire departments indicating the scope of their operation, including the hours of operation, the number of customers and the location of sleeping areas (if applicable); and,
2. For Child Day Care Facilities, the following additional provisions shall apply:
- a. The facility shall not be located within 300 feet of any potentially hazardous land use or activity that might pose a threat to the safety of the children or staff;
 - b. Outdoor play for children shall be confined to a fenced area that shall not be located in any front yard. The time period for such outdoor play shall be from dawn to dusk only;
 - c. Play equipment shall be located at least ten (10) feet from all abutting property line and no excessive noise shall be permitted.

(Ord. 574. 6/28/2010; as amended by Ord. 617, 01/26/2015)

Section 501.4. PROHIBITED USES

Any use not complying with the specifications of this Article is prohibited.

Section 501.5. DISTRICT REGULATIONS

| | |
|---|---|
| <p>Single Household Residential (R-SH)</p> | <p>Height: 45' maximum Lot Area: 7,200 sq. ft. minimum Lot Coverage: 50% maximum Lot Width: 60' minimum Interior Lot Setbacks Front: 15 feet Rear: 20 feet Side: 5 feet Corner Lot Setbacks Front: 15 feet Rear: 20 feet Side Interior: 5 feet Side Abutting Street: 15 feet</p> |
|---|---|

No accessory structure (i.e. garage, patio, swimming pool, gazebo) shall be erected nor shall its dimensions be increased beyond the front of the principal structure at its front foundation line.

An accessory structure may be erected within the rear yard or side yard provided that the height, area, width, setbacks and coverage as required for the District have been met.

Section 501.6. REQUIRED OFF-STREET PARKING SPACES

| LAND USE | REQUIRED OFF-STREET PARKING SPACES |
|--|--|
| | MINIMUM |
| RESIDENTIAL USES: | |
| Single-household detached dwellings | Minimum of 2 spaces per dwelling unit |
| Governmental Home Offices | nothing beyond those required by the dwelling unit itself |
| No Impact Home Based Businesses | nothing beyond those required by the dwelling unit itself |
| Accessory buildings and uses on the same lot, which are customarily incidental to the above use. | N/A |
| NON-RESIDENTIAL USES: | |
| Bus shelters | N/A |
| Essential services accessories | NA |
| Forestry activities | Minimum of 1 space per 200 sq. ft. of enclosed gross floor area if a building or structure is involved, and 1 space per each employee |
| Open Spaces | N/A |
| Public utility facilities accessories | N/A |
| Accessory buildings and uses on the same lot which are customarily incidental to the above uses | N/A |
| SPECIAL EXCEPTION USES: | |
| Cemeteries | 1 space for every 2 employees |
| Houses of Worship | 1 space per each 9 fixed seats or 12 linear feet of fixed benches. If there is no fixed seating, 1 space for each 50 square feet of enclosed gross floor area |
| Funeral home - mortuary | Minimum of 1 parking space per employee and 2 parking spaces for the owner or operator, plus such additional spaces as are required to prevent overcrowding of the existing on-street parking facilities |

| LAND USE | REQUIRED OFF-STREET PARKING SPACES |
|----------------------------------|--|
| | MINIMUM |
| Minor-Impact Home Based Business | Minimum of 2 spaces for the residential use + 2 spaces for the business use if no non-residential employees exist; or 2 spaces for the residential use + 3 spaces for the business use if one (1) non-residential employee exists; or 2 spaces for the residential use + 4 spaces for the business use if two (2) non-residential employees exist. |
| Nursing Homes | Minimum of 1 parking space for every 2 patient beds, plus one (1) parking space per employee and two (2) parking spaces for the owner or operator |
| Professional Offices & Services | Minimum of 1 parking space per office, plus 1 parking Space for every 200 square feet of net floor area |
| Private and Civic Clubs | Minimum of 1 parking space per employee and 2 parking spaces for the owner or operator, plus such additional spaces as are required to prevent overcrowding of the existing on-street parking facilities |
| Public libraries and museums | 3 spaces up to 800 sq. ft. of enclosed gross floor area + 1 space for every additional 100 sq. ft. of floor area |

(Ord. 574. 6/28/2010; as amended by Ord. 617, 01/26/2015)

Section 501.7. MAXIMUM NUMBER OFF-STREET PARKING SPACES

The number of off-street parking spaces shall not exceed the minimum required by more than twenty (20%) percent.

(Ord. 574. 6/28/2010; as amended by Ord. 617, 01/26/2015)

Section 501.8. DRIVEWAYS AND PARKING SPACES

The combined width of any driveways and parking spaces along a property line abutting a street shall not exceed twenty-five (25%) percent of the length of that property line, up to a maximum total width of twenty (20') feet. Additional parking needs must be satisfied in the rear of the property. All parking area must have a minimum setback of five (5') feet from any interior property line and fifteen (15') feet from any property line abutting a street. Where a parking area abuts an existing non-ordained alley, no setback is required from the property line for parking.

(Ord. 574. 6/28/2010; as amended by Ord. 617, 01/26/2015)

Section 502 “R-MH” Multiple-Household Residential**Section 502.1. PURPOSE**

It is the purpose of this Zone to provide areas for medium density residential use, relatively small lot sizes, duplexes, apartment buildings and other multiple household uses, and attached as well as detached dwellings, while protecting the characteristics of these areas. **Note: Additional provisions may apply including, but not limited to, those listed in the “Supplementary Regulations” Section of this Ordinance.**

Section 502.2. PERMITTED USES**A. Residential Uses:**

1. Single-household detached dwellings.
2. Group Homes for a class of people protected by the Americans with Disabilities Act, the Fair Housing Act, or their amendments.
3. Halfway Houses for a class of people protected by the Americans with Disabilities Act, the Fair Housing Act, or their amendments.
4. Governmental Home Offices
5. Public School or Private School
6. Church
7. Convent
8. Institutional Homes
9. Monastery
10. Rectory
11. Parish
12. Temporary Building and use for construction purposes
13. Planned Residential Developments
14. No-Impact Home Based Business (See Section 621 A)
15. Other accessory buildings and uses on the same lot, which are customarily incidental to residential use (including Amateur Radio Antennae)
16. Duplex and two (2) to six (6) maximum household high & low-rise dwellings, townhouses and apartments (maximum 4 stories)
17. Governmental Home Offices
18. Accessory buildings and uses on the same lot, which are customarily incidental to the permitted residential uses in this Section.

B. Non-residential Uses:

1. Bus shelters
2. Essential services (buildings and accessories)
3. Forestry activities
4. Parks, playgrounds and open space
5. Public utility facilities (buildings and accessories)
6. Accessory buildings and uses on the same lot, which are customarily incidental to the permitted non-residential uses in this Section.

Section 502.3. SPECIAL EXCEPTIONS

Special Exceptions may be permitted where the Zoning Hearing Board finds after a public hearing that such uses will not create a hazardous condition and the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Zoning Ordinance, as it may deem necessary to implement the purposes of the Pennsylvania Municipalities Planning Code and this Zoning Ordinance

A. Conversion Apartments:

Any single-household dwelling existing at the effective date of this Ordinance may be converted into a multi-household dwelling providing that the remodeled unit provides separate living units each having a minimum of not less than eight-hundred (800) square feet of habitable area, one (1) bathroom and three (3) habitable rooms (at least one (1) of which shall be a bedroom) separate & private sanitary facilities and cooking & dining facilities for each dwelling unit and;

1. The owner of the property must reside in the dwelling on a continuing basis as long as the use is in existence.
2. The lot area per dwelling unit shall conform to the regulations for the zone in which it is located.
3. Fire escapes, where required, shall be in the rear of the structure and shall not be located on any wall facing a front or side street.
4. Parking shall be provided in accordance with the provisions of Section 502.6.

B. Day Care Facilities (In-home)

1. This Section shall apply to Child or Adult Day Care Facilities (In-Home) providing service for all or part of a 24-hour day for children less than 16 years of age, or for adults who are otherwise not capable of living on their own. The person primarily responsible for the Day Care Facility home shall be a full-time resident of the facility. Friends and/or family members who provide occasional, common babysitting services and places of worship furnishing babysitting during religious services (regardless if they accept donations or a nominal fee) shall not be deemed as operating a Day Care Facility.
 - a. A Day Care Facility shall only be permitted in single-family detached and semi-detached dwellings and shall not be permitted in any accessory buildings;
 - b. The facility shall present to the Borough a copy of their required state license upon request of the Zoning Officer and documentation indicating compliance with all applicable state or local building and fire safety codes;
 - c. The owner/operator shall permit official Borough representatives to enter the property to inspect and verify compliance with the requirements of this Ordinance;
 - d. Child and Adult Day Care facilities shall not provide medical or personal care services that extend beyond assistance with bathing, diet, dressing, and medication prescribed for self-administration unless licensed to provide such services;
 - e. Off-street parking and pick-up/drop-off areas shall be adequate and provided in a safe and secure manner to protect all persons using such spaces and in compliance with Section 502.6;

- f. Day Care facilities shall provide documentation to local police and fire departments indicating the scope of their operation, including the hours of operation, the number of customers and the location of sleeping areas (if applicable); and,
2. For Child Day Care Facilities, the following additional provisions shall apply:
- The facility shall not be located within 300 feet of any potentially hazardous land use or activity which might pose a threat to the safety of the children or staff;
 - Outdoor play for children shall be confined to a fenced area which shall not be located in any front yard. The time period for such outdoor play shall be from dawn to dusk only;
 - Play equipment shall be located at least ten (10) feet from all abutting property line and no excessive noise shall be permitted.

C. Minor-Impact Home Based Businesses (See Section 621 B)

D. Cemeteries, Houses of Worship, Funeral Homes/Mortuary, Nursing Homes, Professional Offices and Services, Private and Civic Clubs, Public Libraries and Museums may be permitted as “Special Exceptions” where the Zoning Hearing Board finds after a public hearing that such uses will not create a hazardous condition and will otherwise meet the following requirements:

1. (the following table)

| | | Minimum lot width at the front lot line | Minimum lot area |
|----------|--|--|-----------------------|
| A | Cemeteries | 200 feet | 18,000 sq. ft |
| B | House of Worship | 120 feet | 15,000 sq. ft |
| C | Funeral Homes/Mortuary | 100 feet | 10,000 sq. ft |
| D | Nursing Homes | 100 feet | 10,000 sq. ft |
| E | Private and Civic Clubs | 100 feet | 10,000 sq. ft. |
| F | Professional Offices & Services | 40 feet | 4, 000 sq. ft |
| G | Public Libraries and Museums | 120 feet | 15,000 sq. ft. |

- The perceived scale of the proposal shall not detract from the residential character of the surrounding neighborhood;
- The appearance of the building shall be residential in character (i.e. gabled rooflines, wood siding or brick, an articulated footprint, varied facade, etc.);
- Proposed traffic will not severely change the residential nature of the neighborhood, and all public and private roads (existing and proposed) serving the site shall be of adequate design and width to handle such traffic;
- There shall be no exterior loud speaker systems or other audible signals which can be heard at or beyond the property line; other than a chime or bell to signal the top & bottom of the hour, and only between 7 AM and 7 PM; and
- Signs, parking, etc. shall comply with the regulations for the district

(Ord. 574. 6/28/2010; as amended by Ord. 617, 01/26/2015)

Section 502.4. PROHIBITED USES

Any use not complying with the specifications of this Article is prohibited.

Section 502.5. DISTRICT REGULATIONS

| | |
|---|--|
| <p>Multiple Household Residential (R-MH)</p> | <p>Height: 45' maximum Lot Area Single Family Dwellings: 6,000 sq. ft. minimum Two-Family Dwellings: 4,000 sq. ft./unit minimum Multiple-Family Dwellings: 1,500 sq. ft./unit minimum Lot Coverage: 50% maximum Lot Width: 60' minimum Interior Lot Setbacks Front: 15 feet Rear: 20 feet Side: 5 feet Corner Lot Setbacks Front: 15 feet Rear: 20 feet Side Interior: 5 feet Side Abutting Street: 15 feet</p> |
|---|--|

No accessory structure (i.e. garage, patio, swimming pool, gazebo) shall be erected nor shall its dimensions be increased beyond the front of the principal structure at its front foundation line. An accessory structure may be erected within the rear yard or side yard provided that the height, area, width, setbacks and coverage as required for the District have been met.

Section 502.6. REQUIRED OFF-STREET PARKING SPACES

| LAND USE | REQUIRED OFF-STREET PARKING SPACES |
|---|---|
| | MINIMUM |
| RESIDENTIAL USES: | |
| Single-household detached dwellings | Minimum of 2 spaces per dwelling unit |
| Duplex and two (2) to six (6) maximum household high & low-rise dwellings, townhouses and apartments (max. 4 stories) | Minimum of 1.5 spaces per dwelling unit |
| Governmental Home Offices | nothing beyond those required by the dwelling unit itself |
| No-Impact Home-Based Businesses | nothing beyond those required by the dwelling unit itself |
| Accessory buildings and uses on the same lot, which are customarily incidental to the above use. | none |

| LAND USE | REQUIRED OFF-STREET PARKING SPACES |
|--|--|
| | MINIMUM |
| <i>NON-RESIDENTIAL USES:</i> | |
| Bus shelters | none |
| Essential services (buildings and accessories) | 1 space per every 2 employees if the involved structure is a building |
| Forestry activities | Minimum of 1 space per 200 sq. ft. of enclosed gross floor area if a building or structure is involved, and 1 space per each employee |
| Parks, playgrounds and open space that do not contain any pavilions, play fields or ball fields. | none |
| Parks containing playfields, ball fields, pavilions or similar structures | 1 space for every 8 persons of maximum design capacity for the facility and 4 per pavilion |
| Public utility facilities (buildings and accessories) | 1 space per every 2 employees if the involved structure is a building |
| Accessory buildings and uses on the same lot which are customarily incidental to the above use | none |
| <i>SPECIAL EXCEPTION USES:</i> | |
| Conversion apartments | Minimum of 2 spaces per dwelling unit |
| Day Care Facility (In-home) | Minimum of 2 spaces per dwelling unit plus 1 space for each employee |
| Minor-Impact Home Based Business | Minimum of 2 spaces for the residential use + 2 spaces for the business use if no non-residential employees exist; or 2 spaces for the residential use + 3 spaces for the business use if one (1) non-residential employee exists; or 2 spaces for the residential use + 4 spaces for the business use if two (2) non-residential employees exist. |
| Cemeteries | 1 space for every 2 employees |
| Houses of Worship | 1 space per each 9 fixed seats or 12 linear feet of fixed benches. If there is no fixed seating, 1 space for each 50 square feet of enclosed gross floor area |
| Funeral home - mortuary | Minimum of 1 parking space per employee and 2 parking spaces for the owner or operator, plus such additional spaces as are required to prevent overcrowding of the existing on-street parking facilities |

| LAND USE | REQUIRED OFF-STREET PARKING SPACES |
|---------------------------------|--|
| | MINIMUM |
| Nursing Homes | Minimum of 1 parking space for every 2 patient beds, plus one (1) parking space per employee and two (2) parking spaces for the owner or operator |
| Private and Civic Clubs | Minimum of 1 parking space per employee and 2 parking spaces for the owner or operator, plus such additional spaces as are required to prevent overcrowding of the existing on-street parking facilities |
| Professional Offices & Services | Minimum of 1 parking space per office, plus 1 parking space for every 200 square feet of net floor area. |
| Public libraries and museums | 3 spaces up to 1,000 sq. ft. of enclosed gross floor area + 1 space every additional 250 sq. ft. of floor area |

(Ord. 574. 6/28/2010; as amended by Ord. 617, 01/26/2015)

Section 502.7. MAXIMUM NUMBER OFF-STREET PARKING SPACES

The number of off-street parking spaces shall not exceed the minimum required by more than twenty (20%) percent.

(Ord. 574. 6/28/2010; as amended by Ord. 617, 01/26/2015)

Section 503 MX-VC” Mixed Use - Village Commercial**Section 503.1. PURPOSE**

It is the purpose of this Zone to incorporate the use of non-residential uses into residential areas, which are undergoing transition. These areas are predominantly residential, but due to environmental and physical features are no longer prime residential areas. The permitted non-residential uses are of a nature, and controlled in such a way, as to minimize their impacts on the existing residential use. **Note: Additional provisions may apply including, but not limited to, those listed in the “Supplementary Regulations” Section of this Ordinance.**

Section 503.2. PERMITTED USES**A. Residential Uses:**

1. Single-household detached dwellings
2. Duplex and two (2) to six (6) maximum household high & low-rise dwellings, townhouses and apartments (maximum 4 stories)
3. Multi-household – over 6 dwelling units (maximum 5 stories)
4. Group Homes for a class of people protected by the Americans with Disabilities Act, the Fair Housing Act, or their amendments.
5. Halfway Houses for a class of people protected by the Americans with Disabilities Act, the Fair Housing Act, or their amendments.
6. Governmental Home Office
7. Institutional Homes
8. No-Impact and Minor Impact Home Based Business (see Section 621-A & B)
9. Accessory buildings and uses on the same lot, which are customarily incidental to the permitted residential uses in this Section.

B. Non-residential Uses:

1. Alcohol Distributors
2. Banks, Credit Unions and other Financial Institutions
3. Bars and Night Clubs
4. Bed and Breakfast
5. Bus shelters
6. Car Wash
7. Child day care centers
8. Commercial Establishments, Multi-Family owner or renter occupied residential development (single or multiple) on second, third, or fourth floors.
9. Essential services (buildings and accessories)
10. Fitness Center, Gymnasium, Health Club
11. Forestry activities
12. Funeral homes – mortuary
13. Health services
14. Medical Clinic
15. Nursing homes
16. Parks, playgrounds and open space
17. Photographers Studio
18. Photography and Camera Supply Shop
19. Private and civic clubs
20. Professional Offices and Services

21. Public utility facilities (buildings and accessories)
22. Restaurant, cafeteria, and snack bar, including the sale of alcoholic beverages
23. Retail sales and services
24. Accessory buildings and uses on the same lot, which are customarily incidental to the permitted non-residential uses in this Section.

(Ord. 574. 6/28/2010; as amended by Ord. 617, 01/26/2015; as amended by Ord. 623, 06/22/2015)

Section 503.3. SPECIAL EXCEPTIONS

Special Exceptions may be permitted where the Zoning Hearing Board finds after a public hearing that such uses will not create a hazardous condition and the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Zoning Ordinance, as it may deem necessary to implement the purposes of the Pennsylvania Municipalities Planning Code and this Zoning Ordinance.

A. Conversion Apartments:

Any single-household dwelling existing at the effective date of this Ordinance may be converted into a multi-household dwelling providing that the remodeled unit provides separate living units each having a minimum of not less than eight-hundred (800) square feet of habitable area, one bathroom and three habitable rooms (at least one of which shall be a bedroom) separate and private sanitary facilities and cooking and dining facilities for each dwelling unit and;

1. The owner of the property must reside in the dwelling on a continuing basis as long as the use is in existence.
2. It does not exceed density standards.
3. The lot area per dwelling unit shall conform to the regulations for the zone in which it is located.
4. Fire escapes, where required, shall be in the rear of the structure and shall not be located on any wall facing a front or side street.
5. Parking shall be provided in accordance with the provision of Section 503.7.

B. Boarding Houses and Lodging Houses, Houses of Worship, Hotel/Motel, Public Libraries and Museums, Schools Public and Private including college and institutions of higher education after the Zoning Hearing Board determines they will not create a hazardous condition and will otherwise meet the following requirements:

1. (the following table)

| | | Minimum lot width at the front lot line | Minimum lot area |
|----------|---------------------------------------|--|-----------------------|
| A | Boarding Houses/Lodging Houses | 200 feet | 18,000 sq. ft |
| B | House of Worship | 150 feet | 15,0000 sq. ft |
| C | Hotel/Motel | 200 feet | 18,000 sq. ft |
| D | Public Libraries and Museums | 150 feet | 15,000 sq. ft. |
| E | Public and Private Schools | 150 feet | 15,000 sq. ft |

2. The perceived scale of the proposal shall not detract from the residential character (where applicable) of the surrounding neighborhood;
3. The appearance of the building shall be residential in character (where applicable) (i.e. gabled rooflines, wood siding or brick, an articulated footprint, varied facade, etc.);
4. Proposed traffic will not severely change the residential nature of the neighborhood (where applicable) and all public and private roads (existing and proposed) serving the site shall be of adequate design and width to handle such traffic;
5. There shall be no exterior loud speaker systems or other audible signals which can be heard at or beyond the property line; other than a chime or bell to signal the top & bottom of the hour, and only between 7 AM and 7 PM; and
6. Signs, parking, etc. shall comply with the regulations for the district
7. Parking lot/facilities for business establishments when not located on the same lot as the principal use for which the parking lot will serve providing:
 - a. The lot is owned by the same owner of the principal use for which the parking lot will serve;
 - b. The lot must be situated directly abutting, or across the street or alley from, the principal use and must be in the same Zoning District;
 - c. The lot shall not be placed on a parcel of land where residences exist and abut both sides of the lot, without the express written consent of the homeowners;
 - d. Only one (ungated) opening for entrance and exit may exist and must be a minimum of twenty (20') wide;
 - e. Steel fencing surrounding the outside perimeter of the lot to a maximum of four (4') shall be erected and maintained in good condition at all times;
 - f. A three (3') foot setback area inside the perimeter fencing consisting of hedges, decorative shrubs and woodchips, river stone or similar materials shall be provided and maintained in good condition at all times;
 - g. Lighting, which may not exceed a maximum height of fifteen (15') feet and must face in a direction to illuminate only the parking area and not be directed in a manner that would create a light hazard or serious annoyance to adjacent or abutting property owners;
 - h. Signs, if needed, may not exceed the height of the fence;
 - i. The lot must be paved with asphalt or concrete and well marked for parking spaces, exiting, etc.; and
 - j. The owner shall be financially responsible for any curb cutting, grading to the street, sidewalk installation and all similar construction necessities.

Section 503.4. PROHIBITED USES

Any use not complying with the specifications of this Article is prohibited.

Section 503.5. DISTRICT REGULATIONS

| | |
|--|---|
| <p>Mixed Use Village Commercial (MX-VC)</p> | <p>Height: 45' maximum Lot Area: 7,500 sq. ft. minimum Lot Coverage: 75% maximum Lot Width: 50' minimum Front Setback: 15 feet Side Setback: 10 feet Rear Setback: 20 feet</p> |
|--|---|

No accessory structure (i.e. garage, patio, swimming pool, gazebo) shall be erected nor shall its dimensions be increased beyond the front of the principal structure at its front foundation line. An accessory structure may be erected with the rear yard or side yard provided that the height, area, width, setbacks and coverage as required for the District have been met.

Section 503.6. REQUIRED OFF-STREET PARKING SPACES

| LAND USE | REQUIRED OFF-STREET PARKING SPACES |
|--|---|
| | MINIMUM |
| <i>RESIDENTIAL USES:</i> | |
| Single-household detached dwellings | Minimum of 2 spaces per dwelling unit |
| Duplex and two (2) to six (6) maximum household high & low-rise dwellings, | Minimum of 1.5 spaces per dwelling unit |
| Multi-household – over 6 dwelling units (maximum 5 stories) | Minimum of 1.5 spaces per dwelling unit + 1 designated visitor parking area for every 4 dwelling units |
| Government Home Offices | nothing beyond those required by the dwelling unit itself |
| No Impact Home-Based Businesses | nothing beyond those required by the dwelling unit itself |
| Accessory buildings and uses on the same lot, which are customarily incidental to the above use. | none |
| <i>NON-RESIDENTIAL USES:</i> | |
| Bus shelters | none |
| Day Care Center (for children) | Minimum of 1 parking space for every 2 children, plus one (1) parking space per employee and two (1) parking space for the owner or operator |
| Essential services buildings | 1 space per every 2 employees if the involved structure is a building |
| Forestry activities | Minimum of 1 space per 200 sq. ft. of enclosed gross floor area if a building or structure is involved, and 1 space per each employee |
| Funeral homes - mortuary | 1 space per 1,400 sq. ft. of enclosed gross floor area |
| Health services | 3 spaces up to 1,000 sq. ft. and 3 spaces for every additional 1,000 sq. ft. of enclosed gross floor area |
| Nursing home | Minimum of 1 parking space for every 2 patient beds, plus one (1) parking space per employee and two (2) parking spaces for the owner or operator |
| Parks, playgrounds and open space that do not contain any pavilions, play fields or ball fields. | none |

| LAND USE | REQUIRED OFF-STREET PARKING SPACES |
|--|--|
| | MINIMUM |
| Parks containing playfields, ball fields, pavilions or the like | 1 space for every 8 persons per maximum design capacity for the facility and 4 per pavilion |
| Professional Offices and Services | 3 spaces up to 1,000 sq. ft. and 3 spaces for every additional 1,000 sq. ft. of enclosed gross floor area |
| Public utility facilities buildings and accessories | 1 space per every 2 employees if the involved structure is a building |
| Retail sales and services | 4 spaces up to 1,000 sq. ft. and 3 spaces every additional 1,000 sq. ft. of enclosed gross floor area |
| Accessory buildings and uses on the same lot which are customarily incidental to the above use | none |
| <i>SPECIAL EXCEPTION USES:</i> | |
| Conversion apartments | Minimum of 2 spaces per dwelling unit |
| Boarding House – Lodging House | 1 space for each sleeping room to be occupied by roomers or boarders + 1 space per dwelling unit + 1 space per every 3 employees not living on the premises |
| Houses of Worship | 1 space per each 9 fixed seats or 12 linear feet of fixed benches. If there is no fixed seating, 1 space for each 50 sq. ft. of enclosed gross floor area |
| Hotel/Motel | 1 space for every 4 guests or sleeping rooms and suites +1 space for every 6 employees + additional space as required by this parking section because of any supplementary parking generating activities |
| Minor-Impact Home Based Business | Minimum of 2 spaces for the residential use + 2 spaces for the business use if no non-residential employees exist; or 2 spaces for the residential use + 3 spaces for the business use if one (1) non-residential employee exists; or 2 spaces for the residential use + 4 spaces for the business use if two (2) non-residential employees exist. |
| Parking lot/facilities for business use when not located on the same lot as the principal use for which the parking lot will serve | appropriate for the size of the lot |
| Public libraries and museums | 3 spaces up to 1,000 sq. ft. of enclosed gross floor area + 1 space every additional 250 sq. ft. of floor area |
| Public and private schools including colleges and institutions of higher education | 1 space for each 25 students per design capacity + 1 space for each 700 sq. ft. of enclosed gross floor area for offices or teacher lounges |

(Ord. 574. 6/28/2010; as amended by Ord. 617, 01/26/2015)

Section 503.7. MAXIMUM NUMBER OFF-STREET PARKING SPACES

The number of off-street parking spaces shall not exceed the minimum required by more than twenty (20%) percent.

(Ord. 574. 6/28/2010; as amended by Ord. 617, 01/26/2015)

Section 504 “CBD” Central Business District**Section 504.1. PURPOSE**

It is the purpose of this Zone to define and provide controls for the major pedestrian-oriented shopping and business areas of the Borough. Note: Additional provisions may apply including, but not limited to, those listed in the “Supplementary Regulations” Section of this Ordinance.

Section 504.2. PERMITTED USES**A. Residential Uses:**

1. Upper floor residential dwellings.
2. Governmental Home Offices
3. Institutional Homes
4. No-Impact, Home Based Business (see Section 621-A)
5. Accessory buildings and uses on the same lot, which are customarily incidental to the permitted residential use in this Section.

B. Non-residential Uses:

1. Alcohol Distributors
2. Automotive sales and services
3. Bars and Night Clubs
4. Bed and Breakfast
5. Bus shelters
6. Car Wash
7. Commercial Establishments, Multi-Family owner or renter occupies residential development (single or multiple) on second, third, and fourth floors.
8. Cultural facilities
9. Essential services (buildings and accessories)
10. Forestry activities
11. Health services
12. Hotel/Motel
13. Parks and open space
14. Private and civic clubs
15. Professional Offices and Services.
16. Public libraries and museums
17. Public utility facilities (buildings and accessories)
18. Restaurant, cafeteria, and snack bar, including the sale of alcoholic beverages
19. Retail sales and services
20. Schools, public and private including colleges and institutions of higher education
21. Wholesale sales and services
22. Accessory uses on the same lot and customarily incidental to the permitted uses

Section 504.3. SPECIAL EXCEPTIONS

- A. Parking lot/facilities for business establishments when not located on the same lot as the principal use for which the parking lot will serve providing:

1. The lot is owned by the same owner of the principal use for which the parking lot will serve;
2. The lot must be situated directly abutting, or across the street or alley from, the principal use and must be in the same Zoning District;
3. The lot shall not be placed on a parcel of land where residences exist and abut both sides of the lot, without the express written consent of the homeowners;
4. Only one (ungated) opening for entrance and exit may exist and must be a minimum of twenty (20') wide;
5. Steel fencing surrounding the outside perimeter of the lot to a maximum of four (4') shall be erected and maintained in good condition at all times;
6. A three (3') foot setback area inside the perimeter of any fencing consisting of hedges, decorative shrubs and woodchips, river stone or similar materials shall be provided and maintained in good condition at all times;
7. Lighting, which may not exceed a maximum height of fifteen (15') feet and must face in a direction to illuminate only the parking area and must face in a direction to illuminate only the parking area and not be directed in a manner that would create a light hazard or serious annoyance to adjacent property owners;
8. Signs, if needed, may not exceed the height of the fence;
9. The lot must be paved with asphalt or concrete and well marked or parking spaces, exiting, etc.; and
10. The owner shall be financially responsible for any curb cutting, grading to the street, sidewalk installation and all similar construction necessities.

Section 504.5. PROHIBITED USES

Any use not complying with the specifications of this Article is prohibited.

Section 504.6. DISTRICT REGULATIONS

| | |
|---|--|
| <p>Central Business District (CBD)</p> | <p>Height: 60' maximum Lot Area: 2,500 sq. ft. minimum Lot Width: 25' minimum Lot Coverage: 100% maximum Front Setback: None Side Setback: None Rear Setback: 15'</p> |
|---|--|

Section 504.7. REQUIRED OFF-STREET PARKING SPACES

| LAND USE | REQUIRED OFF-STREET PARKING SPACES |
|--------------------------|---------------------------------------|
| | MINIMUM |
| <i>RESIDENTIAL USES:</i> | |

| LAND USE | REQUIRED OFF-STREET PARKING SPACES |
|---|--|
| | MINIMUM |
| Upper floor residential dwellings | None |
| Governmental Home Offices | nothing beyond those required by the dwelling unit itself |
| No-Impact Home Based Business | nothing beyond those required by the dwelling unit itself |
| Accessory buildings and uses on the same lot, which are customarily incidental to the permitted residential use in this Section | N/A |
| NON-RESIDENTIAL USES: | |
| Automotive sales | 1 space per each 1000 sq. ft. of enclosed gross floor area + 1 space for each 3,000 sq. ft. of outside display area + 100% of the additional parking spaces required by this table for other land uses on the same lot; at least 170 sq. ft. of lot area shall be provided for each vehicle stored on the premises |
| Automotive services | 1 space per each service bay. A service bay shall not count as a parking space |
| Bus shelters | none |
| Cultural facilities | 1 space per each 7 fixed seats or 12 linear feet of fixed benches; if there is no fixed seating, 1 space for each 100 sq. ft. of enclosed gross floor area |
| Eateries, fast food and sit-down | 1 space for every 4 employees + 1 space for every 4 customer seats |
| Essential services (buildings and accessories) | 1 space per every 2 employees if the involved structure is a building |
| Forestry activities | Minimum of 1 space per 200 sq. ft. of enclosed gross floor area and 1 space per each employee (if applicable) |
| Health services | 1 space per every 5 beds + 1 space for each 6 outpatients at the peak outpatient period + 1 space per each 3 employees + 1 space per each hospital vehicle (Bassinets may not be counted as beds) |
| Hotel/Motel | 1 space for every 4 guests or sleeping rooms and suites +1 space for every 6 employees + additional space as required by this parking section because of any supplementary parking generating activities |
| Parks and open spaces that do not contain any pavilions, play fields or ball fields. | none |

| LAND USE | REQUIRED OFF-STREET PARKING SPACES |
|--|--|
| | MINIMUM |
| Private and Civic Clubs | Minimum of 1 parking space per employee and 2 parking spaces for the owner or operator, plus such additional spaces as are required to prevent overcrowding of the existing on-street parking facilities |
| Professional Offices and Services | 3 spaces up to 1,000 sq. ft. and 3 spaces for every additional 1,000 sq. ft. of enclosed gross floor area |
| Public libraries and museums | 3 spaces up to 1,000 sq. ft. of enclosed gross floor area + 1 space every additional 250 sq. ft. of floor area |
| Public utility facilities (buildings and accessories) | 1 space per every 2 employees if the involved structure is a building |
| Retail sales and services | 3 spaces up to 1,000 sq. ft. and 3 spaces for every additional 1,000 sq. ft. of enclosed gross floor area |
| Schools, public and private including colleges and institutions of higher education | 1 space for each 25 students per design capacity + 1 space for each 700 sq. ft. of enclosed gross floor area for offices or teacher lounges |
| Wholesale sales and services | 2 spaces up to 2,500 sq. ft. and 1 space every additional 3,000 sq. ft. of enclosed gross floor area |
| Accessory buildings and uses on the same lot which are customarily incidental to the above uses | none |
| <i>SPECIAL EXCEPTION USES:</i> | |
| Parking lot/facilities for business use when not located on the same lot as the principal use for which the parking lot will serve | appropriate for the size of the lot |

(Ord. 574. 6/28/2010; as amended by Ord. 617, 01/26/2015)

Section 504.8. MAXIMUM NUMBER OFF-STREET PARKING SPACES

The number of off-street parking spaces shall not exceed the minimum required by more than twenty (20%) percent.

(Ord. 574. 6/28/2010; as amended by Ord. 617, 01/26/2015)

Section 505 “O-C” Open Space - Conservation

Section 505.1. PURPOSE

The "Future Land Use Plan" Section of the Central Cambria Comprehensive Plan develops its goals and objectives into a concrete recommendation for a "Recreation - Open Space - Conservation" (O-C) zoning district. This Ordinance's "Open Space/Conservation" or "O/C" district follows that recommendation. This district's regulations are designed; 1) to allow the appropriate development of floodplains or lands with a slope of 25% or more, 2) to protect the community as a whole against the excessive damage that occurs from erosion and other environmental problems that result from random development on these sensitive lands, 3) to protect lands that are especially valuable to the community's recreation or conservation needs, and 4) to enhance the unique character of this district, its structures, and its quality of life. Note: Additional provisions may apply including, but not limited to, those listed in the "Supplementary Regulations" Section of this Ordinance.

Section 505.2. PERMITTED USES

- A. Parks, playgrounds, or open spaces.

Section 505.3. SPECIAL EXCEPTIONS

Areas of excessive slope, inaccessible or remnants of land not suited for general uses and areas subject to flooding may be used only for the following purposes or comparable purposes as a special exception only, where the Zoning Hearing Board finds after a public hearing that such listed uses: (1) will not create a hazardous condition; (2) are suited to the characteristics of the land; and (3) are considered compatible with adjacent land uses:

- A. Forestry Activities.
- B. Governmental Home Offices
- C. No-Impact Home Based Business (see Section 621.A)
- D. Public utility and essential services "accessories" only
- E. Single-family detached dwellings (and accessory buildings customarily incidental to residential use) under the following conditions:

Section 505.4. DISTRICT REGULATIONS

| | |
|---|---|
| <p>Open Space Conservation (O-C)</p> | <p>Height: 35' maximum Lot Area: 20,000 sq. ft. minimum Lot Width: 100' minimum Lot Coverage: 10% maximum Front Setback: 25' Side Setback: 40' Rear Setback: 40'</p> |
|---|---|

No accessory structure (i.e. garage, patio, swimming pool, gazebo) shall be erected nor shall its dimensions be increased beyond the front of the principal structure at its front foundation line. An accessory structure may be erected with the rear yard or side yard provided that the height, area, width, setbacks and coverage as required for the District have been met.

Section 505.5. REQUIRED OFF-STREET PARKING SPACES

Parking requirements shall follow as per the R-SH district Parking Chart.

SECTION 506 Historic Character Overlay District**Section 506.1. APPLICABILITY**

The purpose of this Section is to preserve and generally enhance the traditional community character of the overlay district by ensuring that new buildings are compatible with existing traditional areas.

Section 506.2. LOCATION

The Historic Character Overlay is located as shown on the Zoning Map. This area has been designated to preserve the historic character of the structures in Ebensburg Borough and protect the designated area from undesirable land uses and buildings.

This overlay applies within two (3) different zoning districts, R-SH (Residential Single Household; R-MH, Residential Multi-Household and CBD, Central Business District). The requirements of the underlying R-SH, R-MH and CBD districts where they exist shall be followed in addition to the HCO Overlay District. The zoning district regulations, parking requirements, and signs for the respective district shall be followed with the exception of the following:

(Ord. 574, 6/28/2010; as amended by Ord. 617, 01/26/2015)

Section 506.3. DISTRICT REGULATIONS

- A. The height of a structure shall not be less than two (2) stories high
- B. The structure shall face the street in which it is addressed according to the Cambria County 911 address system.
- C. The building should have the same average setbacks as existing buildings on the same block
- D. The building size, height, and width should be similar, or appear to be from the street similar to, other existing buildings on the same block.

If, in the opinion of the zoning officer, the proposed new construction satisfies the intent of this Section, a zoning permit shall be issued. If the zoning officer determines that the proposed construction would adversely affect the character of the historic character overlay district, the zoning officer shall refer the matter to the Borough Planning Commission to review the application and either recommend approval or recommend alternatives to the applicant. Recommendations shall be advisory only and shall not be considered as grounds for approving or denying an application. Following the review and after considering the recommendations and/or alternatives, the zoning officer shall render an opinion. Any person aggrieved by such determination of the zoning officer may appeal to the zoning hearing board, as provided for elsewhere herein.

Section 506.4. BOUNDARY INTERPRETATION

Where an interpretation is needed as to exact location of the boundaries of the HCO in relation to a given parcel, the Zoning Officer shall make an initial determination. Any person seeking such a determination may submit a survey of the property and any pertinent documentation for consideration.

Section 506.5. APPEAL OF BOUNDARY INTERPRETATION

Any person aggrieved by any such determination of the Zoning Officer may appeal to the Zoning Hearing Board. The person contesting the location of the HCO boundary shall have the burden of proof in case of any such appeal.

Section 506.6. APPLICATIONS FOR VARIANCES

In deciding upon applications for variances in the Historic Character Overlay District, the Zoning Hearing Board shall follow procedures for consideration as required in Section II of this Ordinance.

- A. Within the Historic Character Overlay District, the pattern of lot sizes and dimensions and the spatial relationships between a building and its site and between adjacent structures are important elements of the overall physical character of the district.
- B. The Zoning Hearing Board should generally not approve dimensional variances within the HCO District necessitated by the proposed building alteration unless the proposed alteration has been favorably reviewed by the Planning Commission and issuance of a certificate of appropriateness recommended if required.

ARTICLE VI - SUPPLEMENTARY REGULATIONS**Section 601. INTRODUCTORY STATEMENT**

The purpose of this Article is to constitute policies that involve and affect all or a majority of the Zoning Districts in the Borough of Ebensburg Zoning Ordinance including, but not limited to, such matters as Lot Area Measurement and Reduction, Height Measurement and Exceptions, Restrictions, Buffer Yards, Storage, Clear Sight Triangle and other supplementary regulations necessary for proper use and development within the Districts.

Section 602. LOT AREA, MEASUREMENT and REDUCTION OF DIMENSIONS**A. Lot Area for Garages**

No requirement for a “minimum yard area” contained in this Ordinance shall prevent the construction of a private garage within the required rear yard of a lot where a dwelling was erected prior to the time of enactment of this Ordinance, where said lot does not meet minimum lot area requirements of this Ordinance. However, said garage must be in compliance with Section 606.C. relative to setbacks and must not be placed in the clear sight triangle.

B. Lot Measurement

For purposes of measuring lot area on exceptionally deep lots, only that part of the depth which is less than six (6) times the average width of the lot may be utilized in calculations.

C. Reduction of Lot Dimensions

The area, width, or depth of any lot shall not be reduced by subdivision, sale, or development so that the lot width, lot area, lot area per dwelling unit, setbacks, or other open spaces are smaller, or so that the coverage is greater, than prescribed for the district in which it is located.

Section 603. SUBDIVISION AND REDIVISION**A. Requirements**

Any parcel or parcels of real estate situated within the Borough of Ebensburg, in whole or in part, may be subdivided provided that the parcel or parcels resulting from said subdivision shall meet all other requirements of this Ordinance.

B. "Subdivision" Defined

For the purpose of this Ordinance, subdivision shall mean the division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of a transfer of ownership, partitioned by the Court for distribution to heirs or devisees or the construction of improvements thereon.

C. Application; Survey Plat

The person or persons seeking approval of a subdivision shall make application therefore on a form to be established by Resolution of the Borough Council of the Borough of Ebensburg and shall present a survey plat prepared by a registered professional land surveyor or engineer depicting all existing and proposed lot lines for the requested subdivision.

D. Planning Commission Review and Report

The application for subdivision shall be presented to the Planning Commission of the Borough of Ebensburg for its review and report, which report shall be presented at the next regular meeting of the Borough Council of the Borough of Ebensburg occurring fifteen (15) days or more after presentation of the same to the Planning Commission.

E. Approval; Disapproval

The Borough Council of the Borough of Ebensburg may act to approve or disapprove the requested subdivision at its next regular meeting occurring at least fifteen (15) days after presentation of the same to the Ebensburg Borough Planning Commission. If the Borough Council fails to act to approve or disapprove the subdivision request at the aforesaid regular meeting of Borough Council, and at the next regular meeting of Ebensburg Borough Council thereafter, then the subdivision request is deemed approved.

Section 604. HEIGHT MEASUREMENTS AND EXCEPTIONS**A. Measurement of height shall be the vertical height from the average elevation of finished grade at the front of the structure to:**

1. In the case of a flat roof structure - highest point of coping.
2. In the case of a mansard roof structure - deck line of roof.
3. In the case of a gable or hipped roof - average height of roof.

B. An attic designed and intended for use, as a habitable space shall be counted as a story when determining height as required in this Ordinance.**Section 605. SETBACK AVERAGING**

Where one or more pre-existing structures are located on adjacent lots within 100 feet in any direction of a proposed structure in the same district, the setback of the proposed structure may conform with the average setbacks of the said pre-existing structures.

Section 606. PERMITTED SETBACK ENCROACHMENTS

- A. Cornices, eaves, gutters, bay windows, or chimneys may encroach into the required setback of a lot, not more than twenty-four (24'') inches. However, no cornices, eaves, gutters, bay windows, or chimneys may be closer than three and one-half (3 1/2) feet from any side lot line. Sidewalks and steps located at the front door/porch as a means of ingress and regress for the structure may extend up to the front property line.
- B. A covered carport or covered patio/porch open on three (3) sides may be erected within any yard when attached to a main structure existing at the effective date of this Ordinance provided the covered carport or covered patio or porch open on three (3) sides shall be not less than five (5') feet from the applicable lot lines, and shall never be enclosed.
- C. A detached private garage used for storage purposes only and having a capacity for not more than two automobiles, if constructed in the rear yard, may be constructed to within five feet of the side property line and/or to within ten feet of the rear property line. Where the rear of the property borders a grass, unopened alley and there is no history of actual use of the alley by any person, the Zoning Officer may reduce the rear setback requirement to five feet, thereby allowing the alley itself to satisfy a portion of the setback intent.
- D. Small utility sheds are not permitted within any front yard. Utility sheds may be placed in any rear yard of a residential lot with a minimum setback of five feet from all side and rear property lines. Such sheds shall not exceed 144 sq. ft. and have a height of not more than ten feet. Sheds greater than 144 sq. ft. must comply with Section C above applicable to garages.

Section 607. FENCES AND WALLS

- A. Fences and walls may be erected, altered, and maintained provided that:
 - 1. any fence in the rear yard shall be permitted a maximum height of six (6') feet;
 - 2. any fence in a side yard shall be permitted a maximum height of six (6') feet;
 - 3. all fences shall be erected so that the finished side of the fence faces all abutting and/or adjacent properties.
 - 4. retaining walls are permitted, but if the retaining wall rises more than six (6'') inches above the grade of the yard, then the same provisions and regulations for any fence or wall shall apply.
- B. Fences and walls shall not be erected, altered, and/or maintained in front setbacks or beyond the front of the building line.
- C. Fences on corner lots shall comply with the provisions of the Clear Sight Triangle for corner lots and other provisions of this Section.
- D. Fences shall be constructed in a neat and orderly manner, of materials which are not intrinsically unsightly.
- E. All fences must be erected a minimum of one foot six inches (18'') inside of any side or rear property line and no less than two feet from any street line. Where the property borders a grass, unopened alley and there is no history of actual use of the alley by any person, the Zoning Officer may waive the setback requirement, thereby allowing the alley itself to satisfy the setback intent.

- F. Fences and walls may not be constructed in a manner which may cause water damage to abutting and/or adjacent property.
- G. Fences and walls must be erected in a safe manner to protect persons or animals and assure that they are not subject to danger or harm. No spikes, nails or other sharply pointed instruments of any kind or description shall be permitted to extend from, or be attached to, the wall or fence. Barbed wire, razor wire and above ground electric fences shall not be permitted.

Section 608. BUFFER YARDS AND SCREENING

Where a non-residential use is established either abutting or adjoining a residential use, a buffer yard not less than five (5') feet in width shall be provided along the lot lines of the non-residential use that abut or adjoin said residential use. The buffer yard shall be in addition to the setbacks required for the zone in which it is located.

- A. All buffer yard areas shall be planted and maintained with a vegetative material plus a screen planting shall be planted and maintained to the full length of the abutting or adjoining lines.
- B. Buffer yards shall not be used for parking.
- C. Buffer yards, other than interior side buffer yards, may be crossed by driveways less than twenty (20) 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 sixty (60) degrees.
- D. If a front yard of thirty (30) feet or more in depth is provided, the buffer yard may coincide with the front thirty (30) feet of the front yard.
- E. Within required buffer areas, a solid and continuous landscape screen shall be planted and maintained. Said landscaping shall consist of massed evergreen and/or deciduous trees and shrubs of at least three and one-half (3 1/2) feet in height and of such species as will produce, within three (3) growing seasons, a screen at least six (6) feet in height, so as to continually restrict a clear view beyond said buffer strip.
- F. The required height of the buffer strip shall be measured in relation to the elevation of the edge of the adjacent area to be screened. In such cases where the ground elevation of the location at which the screen is to be planted is less than the elevation of the edge of the adjacent area, the required height of the screen shall be increased in an amount equal to said difference in elevation. In the event that the ground elevation of the location at which the screen is to be planted is greater than that at the edge of the adjacent area, the minimum height of the screen shall prevail.
- G. In required buffer areas where a natural buffer strip is considered to be impractical or inappropriate, an opaque fence may be substituted in whole or in part of a natural buffer provided the Zoning Officer or the Zoning Hearing Board approves its specifications.

Section 609. STORAGE OF COMMERCIAL EQUIPMENT

Commercial vehicles and/or equipment including dump trucks [one (1) ton capacity or larger], flat bed trucks, tandem axle cabs, tractor trailers, tractors, cargo vans or other commercial or construction and cargo-moving vehicles or equipment shall not under any conditions be stored or parked overnight in any Residential District. This is not intended to include pickup trucks or vans commonly used by a resident for personal affairs, whether or not labeled or registered as belonging to a business.

Section 610. STORAGE / COLLECTION OF JUNK

No lot or premise shall be used as a storage area for one or more junk automobiles, junk appliances, or the storage or collection of any other miscellaneous junk items. Also, no lot or premises shall be used as a garbage dump or a dead animal rendering plant, nor may manure, rubbish or miscellaneous refuse be stored in the open within any District where the same may be construed as a menace to the public health or safety.

Section 611. MINIMUM DISTANCES FOR CERTAIN OFFENSIVE USES

- A. No place of business which dispenses alcoholic beverages shall be located within two-hundred (200) feet of a residential zone.
- B. No foundry, cement plant or other activity which emits significant quantities of dust into the atmosphere shall be permitted within eight-hundred (800) feet of a residential zone.
- C. No business shall establish a storage area for petroleum or petroleum byproducts, other than underground storage tanks necessary for the normal sale, at retail, of petroleum products within eight-hundred (800) feet of a residential zone.

Section 612. CLEAR SIGHT TRIANGLE

A Clear Sight Triangle is a triangular area of unobstructed vision on corner lots formed by a seventy-five (75) foot sight line along the center line of a secondary or primary road by a fifty (50) foot sight line along the center line of a local street and by a line adjoining these two sight lines at the greatest distance from their intersection. In order to prevent the creation of a traffic hazard by limiting visibility at a street intersection; no structure, building, fence, earthen bank or vegetation exceeding three and one-half (3 ½') feet in height above the finished paved area at the center of the roadway shall be allowed within the clear sight triangle on corner lots. This clear sight triangle, relative to building construction, is exempted for the C-CB District (where sidewalks are in existence)

Section 613. INTENDED ORIGINAL USE

Any structure in place more than six (6) months shall be deemed permanent and must meet all applicable regulations (zoning, subdivision, building code, floodplain, stormwater), and all other regulations applicable in Ebensburg Borough.

Section 614. BASEMENT, ACCESSORY AND ADDITIONAL DWELLINGS

- A. BASEMENT DWELLINGS

No living quarters shall be placed in a basement structure or in any other room or space having less than seven (7') feet of ceiling clearance above the average ground level as measured from front to rear of the structure.

B. ACCESSORY DWELLINGS

No accessory structures on the same lot where a principal dwelling exists (or existed in the case of a fire or other structural decay or similar condition which made the dwelling uninhabitable) may be used for living purposes in any District in the Borough of Ebensburg.

C. ADDITIONAL DWELLINGS

Individual lots or subdivided parcels ten acres or less in size shall have no building or buildings in addition to the main building on the same lot used for living purposes. Undivided land parcels of ten (10) acres or greater in size shall be limited to one residential structure per ten (10) acre unit of undivided land area or portion thereof as permitted under the requirements of the District in which the land area is located except that associated household service employee and guest quarters are permitted either independently or as an integral part of an accessory structure in accordance with the requirements of any Residential District as established in this Ordinance.

Section 615. SWIMMING POOLS

Private swimming pools where permitted as an accessory use, are permitted only in side and rear setbacks. Pools over twenty-four (24) inches high, and all in-ground swimming pools, shall be completely enclosed with a protective barrier at least four (4) feet in height to prohibit persons or animals from entering and to assure that they are not subject to danger or harm. In addition, all openings in the barrier shall be equipped with gates or doors which must be locked when not in use. For approved above-ground pools four (4) feet or higher, the walls of the pool may serve as the required barrier.

Section 616. JUNK YARDS

- A. All junkyards shall be enclosed with a solid fence a minimum of eight feet in height with gates. Gates shall be securely locked except during business hours when an adult attendant is on the premises.
- B. All materials stored within junkyards shall be stored and set back at least 25 feet from any adjoining premises and at least 50 feet from the right-of way of any public road or highway.
- C. Burning or melting of any junk, rubbish, or refuse is prohibited.
- D. All material shall be stored and arranged so as to permit access by fire fighting equipment and to prevent accumulation of stagnant water. Materials or scrapped automobiles shall not be piled to a height of more than eight feet from the ground.
- E. All gasoline's shall be drained from any junk or scrapped automobiles into containers and removed from the premises within 12 hours from arrival on the premises.
- F. All fluid wastes must comply with State and Federal regulations for disposal. (Transmissions fluid, etc.)
- G. No garbage or organic waste shall be permitted to be stored in any junkyard.

Section 617. USE OF RECREATIONAL VEHICLES RESTRICTED

At no time shall "parked or stored" mobile home, camping or recreational equipment be occupied or used for living, sleeping or housekeeping purposes.

(Ord. 574, 06/28/2010; as amended by Ord. 593, 09/26/2011; and by Ord. 595, 10/24/2011)

Section 618. ESSENTIAL SERVICES

- A. Buildings and structures governed by local, state or federal agencies including police and fire departments, U.S. Post Office, ambulance & EMS services, courthouse and municipal buildings shall be permitted in the zones as per Article V, Zone Provisions, without regard to the area regulations.
- B. Fire alarm boxes, traffic signals, hydrants, street lights and similar equipment and accessories necessary for the furnishing of essential services for the public health, safety, or general welfare, shall be permitted in all Zoning Districts.

Section 619. PUBLIC UTILITY FACILITIES

- A. Buildings and structures for closely regulated enterprises with a franchise for providing to the public a utility service deemed necessary including natural gas, electric, land-line telephone, water and sewage services shall be permitted in the zones as per Article V, Zone Provisions, without regard to the area regulations.
- B. Wires, mains, drains, sewers, pipes, conduits and cables necessary for the furnishing of a public utility service for the public health, safety, or general welfare, shall be permitted in all Zoning Districts.
- C. Commercial wireless communications companies are not considered a public utility.

Section 620. FORESTRY ACTIVITIES

- A. Forestry activities, including, but not limited to, timber harvesting, shall be a permitted use by right in all zoning districts.
 - 1. Forestry operations shall be guided by procedures outlined by the Forestry Management Department of the Commonwealth of Pennsylvania and property owners shall at all times be responsible for all activities on their property.
 - 2. The forest shall be planted with only trees that are native to the Commonwealth of Pennsylvania and a variety of trees is encouraged (excluding poplar trees and willows or other trees which may damage water/sewer lines)
 - 3. Routine maintenance for pruning, trimming, dead tree removal, brush control, removal of downed branches and pest control must be performed by the property owner.
 - 4. When and if trees are harvested, proper care shall be taken to ensure that no damage occurs to the surrounding properties, and all stumps must be removed and disposed of.
 - 5. If the property is no longer going to be used for the practice of forestry, the land must be returned to its former condition (i.e. cleared and planted with grass). Certainly, a few trees which would enhance the value or aesthetics of the property may be retained.

6. All activities which would create noise or otherwise disturb the peace of the neighborhood shall only be performed within the terms of the applicable noise ordinance and shall not impede or otherwise interfere with the normal flow of traffic.
7. Trees growing in the clear sight triangle must comply with the regulations of the clear sight triangle; and trees must not be planted so close to the boundary lines that the branches would extend into or over abutting properties.

Section 621. HOME-BASED BUSINESSES

A. No-Impact Home Based Businesses

A No-Impact Home Based Business which is conducted as an accessory use - clearly secondary to the use of a residential dwelling - and which involves no customer, client or patient traffic (whether vehicular or pedestrian), pickup, delivery or removal functions to or from the premises in excess of those normally associated with residential uses, is permitted without a Zoning Permit but must satisfy the following requirements:

1. The business activity shall be compatible with the residential use of the property and surrounding residential uses;
2. The business shall employ no employees other than family members residing in the dwelling;
3. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature;
4. There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights;
5. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception which is detectable in the neighborhood;
6. The business activity may not generate any solid waste or sewage discharge, in volume or type which is not normally associated with residential use in the neighborhood;
7. The business activity shall be conducted only entirely within the dwelling and may not occupy more than 25% of the habitable floor area of the residence; and
8. The business may not involve any illegal activity.

B. Minor-Impact Home Based Businesses

A Minor-Impact Home Based Business may be permitted as a “Special Exception Use” where the Zoning Hearing Board finds after a public hearing that such use will not create a hazardous condition and will otherwise meet the following requirements:

1. The business activity shall be compatible with the residential use of the property and surrounding residential uses;
2. The business must only be conducted in a single-family dwelling;
3. The business shall employ no more than two (2) employees other than family members residing in the dwelling;
4. May allow limited onsite display in the windows depicting services rendered or goods and items for sale;
5. May allow limited stockpiling of inventory for sale not to exceed 5% of the gross floor area used for the business;

6. May allow limited outside appearance of a business use;
7. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception which is detectable in the neighborhood;
8. The business activity may not generate any solid waste or sewage discharge, in volume or type which is not normally associated with residential use in the neighborhood;
9. The business activity shall be conducted only entirely within the dwelling and may not occupy more than 25% of the habitable floor area of the residence;
10. The business may not involve any illegal activity;
11. Any alteration of the structure for business use must be in compliance with all applicable building codes;
12. Signs, parking and any other provisions of this Ordinance for the Zoning District shall be in compliance with the regulations for the District; and
13. A business may be permitted which involves the onsite care, grooming or feeding of not more than two (2), domesticated dogs or cats at a time provided that:
 - a. Detrimental effects to the neighborhood relative to noise or smell from the dogs or cats shall not be permitted;
 - b. It shall be the business owner's responsibility at all times to monitor the dogs or cats, and to keep the dogs and cats from depositing urine, fecal matter and vomit on streets, sidewalks and other property in the Borough; and
 - c. The owner and all customers shall utilize the business owner's off-street parking only for pickup and delivery, and the dogs or cats must be fully and safely confined or on a leash at all times when not contained within the dwelling.

Section 622. AMATEUR RADIO ANTENNA

This section establishes guidelines regarding the accessory use where permitted in Zoning Districts as per Article V, Zoning Provisions, of amateur radio antenna (commonly known as "ham radios"), including, but not limited to, the permitted height of an amateur radio antenna, yard requirements, the location of amateur radio antennae, regulations regarding the maintenance of amateur radio antennae, structural integrity, requirements for anti-climbing devices, and licensing requirements.

All amateur radio antennae and activities related to amateur radio communication shall comply with applicable laws and regulations of the Borough of Ebensburg and the Commonwealth of Pennsylvania and prohibits the use of amateur radio antenna for commercial purposes.

- A. No amateur radio antennae shall be affixed to any residential dwelling.
- B. Amateur radio antennae shall comply with all applicable standards established by the Federal Communications Commission (FCC) governing human exposure to electromagnetic radiation.
- C. The antennae shall not cause radio frequency interference with other communications facilities located in the Borough of Ebensburg or other private transmissions such as television or radio reception in the vicinity of the antennae.
- D. The location of the antennae shall be subject to the setback requirements in the applicable Zoning District.
- E. The owner or operator of the antennae shall be licensed, if applicable, by the Federal Communications Commission (FCC) to operate the antennae.
- F. The antennae must not be located on any lot other than the lot where the residence, occupied by owner, is situated, and must not be placed in any side(s) or front yard.

- G. The proposed height of the antennae may not exceed the minimum height necessary to perform its function. In any event, the antenna shall not extend higher than twenty (20') feet above the surrounding tree canopy.
- H. The owner of the antenna and its supporting structure shall maintain it in a clean appearance so as not to be an eyesore, and keep it in a structurally sound condition and safe condition at all times.

Section 623. TOWERS, WIRELESS TELECOMMUNICATIONS FACILITIES AND SATELLITE DISHES

A. Communications Towers

1. Prohibited

Communications towers are not permitted in any district within Ebensburg Borough. Said towers are provided for within Cambria Township and Jackson Township, said use being coordinated with this Ebensburg Borough Zoning Ordinance.

2. Abandoned Towers

If a communications tower which existed prior to the enactment of this ordinance remains unused for a period of six (6) consecutive months, the communications tower must be removed within ninety (90) days of the expiration of such six (6) month period, commencing upon receipt of notice from the Borough of Ebensburg notifying the owner of such abandonment. Failure to remove an abandoned tower within said ninety (90) days shall be grounds for the Borough to remove the tower at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The Borough may condition the issuance of any permit to demolish or remove a tower on the posting of appropriate performance bond or other suitable guaranty in a face amount of not less than one hundred and twenty (120) percent of the cost (as determined by the Borough Engineer) of such removal, grading and restoration to a state required under all applicable Borough Ordinances.

3. Rebuilding Damaged or Destroyed Non-conforming Towers

Non-conforming towers that are damaged or destroyed may not be rebuilt without having to first obtain administrative approval, a Special Exception or a conditional use permit. The type, height and location of the tower on-site shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then-applicable building codes and shall be obtained within twelve (12) months from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower shall be deemed abandoned as specified in Subsection 2. The applicant shall submit certification from a Pennsylvania registered professional engineer that the new communications tower will be designed and constructed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Association Telecommunications Industry Association and applicable requirements of the Borough's Building Code. The site of the new tower shall be secured by a minimum of a six (6) foot fence, to a maximum height of eight (8) feet, to limit accessibility by the general public. No signs or lights shall be mounted on a tower except as may be

required by the Federal Communications Commission, Federal Aviation Administration or other governmental agency that has jurisdiction.

B. Communications Antennae

Antennae are permitted to be installed on existing structures, other than towers, subject to the following regulations.

1. If an antenna is installed on a structure, the antenna and supporting electrical and mechanical equipment must be a neutral color that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
2. Mounted communications antennas shall be permitted to exceed the height limitations of the applicable Zoning District by no more than twenty (20') feet.
3. Omni directional or whip communications antennas shall not exceed twenty (20') feet in height and seven (7") inches in diameter.
4. A directional or panel communications antenna shall not exceed five (5') feet in height and three (3') feet in width.
5. Any applicant proposing communications antennas to be mounted on a building or other structure shall submit evidence from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or other structure, considering wind and other associated with the antenna location.
6. Any applicant proposing communications antennas to be mounted on a building or other structure shall submit detailed construction and elevation drawings indicating how the antennas will be mounted on the structure for review for compliance with the Borough's Building Code and other applicable law.
7. Any applicant proposing communications antennas to be mounted on a building or other structure shall submit evidence of agreements and/or easements necessary to provide access to the building or structure on which the antennas are to be mounted so that installation and maintenance of the antennas can be accomplished.
8. Communications antennas shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
9. Communications antennas shall not cause radio frequency interference with other communications facilities located in the Borough.
10. The owner or operator of communications antennas shall be licensed by the Federal Communications Commission to operate such antennas.

C. Satellite Dishes

1. A satellite dish antenna; intended for video programming, broadband radio or

television broadcast; and no greater than one meter in diameter, is a permissible accessory to any structure in any zoning district, and does not require a building permit or zoning approval.

2. Larger ground-mounted satellite dishes shall have a maximum height of fifteen (15') feet and shall have a maximum diameter of ten (10') feet. Such dishes may be installed in rear areas at least 15 feet from any property line. Ground mounted dishes shall be screened from adjacent properties by evergreen trees or other type of suitable screening. Any applicant may apply to the Zoning Hearing Board for a special exception regarding the height, size, or placement of a satellite dish when it is demonstrated that the present requirements are detrimental to reception.

Section 624. BUS SHELTERS

- A. Shall not impair sight distances at intersections or otherwise pose a hazard to moving traffic
- B. Shall not contain advertising of any kind except identification of the bus company, and a posting of relevant schedule and service information.
- C. Shall be perpetually maintained and kept clean and sanitary. This guarantee can be made through an agreement or other binding legal instrument.
- D. Shall not be placed on private property without the owner's consent.
- E. Shall be completely removed and the site restored to its original condition if the location no longer warrants a shelter. This guarantee can be made through an agreement or other binding legal instrument.
- F. Shall not interfere with adjacent property owners' use and enjoyment of property.

Section 625. LAND USES NOT CATEGORIZED IN ARTICLE V – ZONE PROVISIONS

For land uses not listed under the Districts in Article V, "Zone Provisions", Borough Council shall determine (1) which Zoning Districts they shall be allowed in, (2) how they shall be allowed in those districts (i.e., as permitted principal uses, permitted accessory uses, conditional uses, etc.), and (3) which sections of the Ordinance apply to them. Council may ask the Planning Commission for a recommendation on these matters.

Section 626: PARKING DESIGN AND DEVELOPMENT STANDARDS

The following minimum design standards for parking areas and aisle shall apply:

- A. Parking lot dimensions shall be no less than those listed in the following table:

| | |
|---------------------------------|----------------|
| Angle Parking 90 Degrees | |
| Parking width | 10 feet |
| Stall depth | 20 feet |
| Aisle width/one-way | 20 feet |
| Aisle width/two-way | 24 feet |
| Angle Parking 60 Degrees | |
| Parking width | 10 feet |
| Stall depth | 21 feet |
| Aisle width/one-way | 18 feet |
| Aisle width/two-way | 21 feet |
| Angle Parking 45 Degrees | |

| | |
|---------------------------------|----------------|
| Parking width | 10 feet |
| Stall depth | 20 feet |
| Aisle width/one-way | 15 feet |
| Aisle width/two-way | 18 feet |
| Angle Parking 30 Degrees | |
| Parking width | 10 feet |
| Stall depth | 20 feet |
| Aisle width/one-way | 12 feet |
| Aisle width/two-way | 15 feet |
| Parallel Parking | |
| Parking width | 8 feet |
| Stall depth | 22 feet |
| Aisle width/one-way | 12 feet |
| Aisle width/two-way | 18 feet |

- B. Entrance and exit ways shall have a minimum width of 12 feet for each lane of traffic entering or leaving the site but shall at no time exceed 30 feet in width at the street line**
- C. All dead-end parking lots shall be designated to provide sufficient back-up for the end stalls of the parking area.**
- D. Evergreen plantings shall be provided in sufficient height and density to screen off-street parking from public street view and from adjoining residential districts. A planting plan specifying type, size, and location of existing and proposed planting material shall be submitted with the application for the permit.**
- E. Entrance and exit ways and interior access ways shall be designed as to prevent the blocking of vehicles entering or leaving the site.**
- F. If compliance with the minimum design standards in Section 626.A above makes it impossible to satisfy the number of required off-street parking spaces or to otherwise develop the parcel in an effective manner, the Zoning Officer may reduce any of the prescribed Angle Parking dimensions to a minimum of 9'x18', if such a reduction in size will allow the minimum number of spaces to be satisfied.**

(Ord. 574. 6/28/2010; as amended by Ord. 617, 01/26/2015)

Section 627: DRIVEWAYS

All driveways and off-street parking spaces created, expanded, or otherwise improved after the date of this Ordinance shall be finished with a concrete, asphalt, brick, or other impervious surface a minimum distance of twenty (20') feet from its intersection with any borough street, so as to prevent washout of debris from the driveway into said street.

Section 628: TRAILER HOMES AND TRAILER PARKS

- A. Trailer homes are not permitted in any district within Ebensburg Borough. Trailer homes are provided for within Cambria Township and Jackson Township, said use being coordinated with this Ebensburg Borough Zoning Ordinance.**

- B. Trailer parks are not permitted in any district within Ebensburg Borough. Trailer parks are provided for within Cambria Township and Jackson Township, said use being coordinated with this Ebensburg Borough Zoning Ordinance.**
- C. No habitable vehicles or trailer homes shall be used in any district as a temporary or permanent dwelling or for any trade or occupation, whether its wheels have been removed or it has been placed on a foundation.**

Exceptions: The provisions of this section shall not apply to any trailer home existing within the Borough on the inception date of this Ordinance. Such existing trailer homes shall be considered as pre-existing non-conforming buildings, and shall be governed by Article III.

Section 629: WIND TURBINE GENERATORS

This section establishes guidelines regarding the accessory use where permitted in Zoning Districts as per Article V, Zoning Provisions, of wind turbine generators (commonly known as “windmills”), including, but not limited to, the permitted height of a windmill, yard requirements, the location of windmills, regulations regarding the maintenance of windmills, structural integrity, requirements for anti-climbing devices, noise restrictions, and decommissioning.

All wind turbine generators and activities related to windmills shall comply with applicable laws and regulations of the Borough of Ebensburg, the Commonwealth of Pennsylvania, the Federal Aviation Administration, and all applicable regulations and standards including the Pennsylvania Uniform Construction Code, American National Standards Institute and Underwriters Laboratories, The energy produced by wind turbine generators shall only be used on the property on which the wind turbine is located, and the sale or transfer of energy off premises is prohibited.

A. Definitions

Hub Height: the distance measured from the surface of the lower foundation to the height of the wind turbine hub, to which the blade is attached.

Turbine Height: the distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane.

Wind Rotor: the blades, plus the hub to which the blades are attached, that are used to capture wind for the purpose of energy conversion. The wind rotor is mounted on a pole or tower or other suitable structure along with other generating and electrical equipment to form a wind turbine.

Wind Turbine: a wind conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, wind rotor, tower, and pad transformer, if any.

B. Regulations

- 1. The wind turbine shall be independent of any structure and shall be located a minimum distance of one hundred ten (110%) percent of the Turbine Height from any structure or property line.**
- 2. No part of the Wind Turbine shall be located within any required front, side or rear**

- setback for the zoning district in which it is to be located.
3. The minimum height of the lowest position of the wind rotor shall be twenty-five (25') feet above the ground.
 4. Wind Turbines shall not be climbable up to twelve (12') feet above the ground.
 5. To the extent applicable, the Wind Turbine shall comply with the Pennsylvania Uniform Construction Code, Act 45 of 1999 as amended, and the regulations adopted by the Department of Labor and Industry.
 6. The design of the Wind Turbine shall conform to applicable industry standards, including those of the American National Standards Institute. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturer from the Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.
 7. Wind Turbines shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
 8. All electrical components of the Wind Turbine shall conform to relevant and applicable local, state and national codes and relevant and applicable international standards.
 9. Wind Turbines shall be a non-obtrusive color such as white, off-white or gray.
 10. Wind Turbines shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
 11. Wind Turbines shall not display advertising, except for reasonable identification of the turbine manufacturer.
 12. On-site transmission and power lines shall, to the extent possible, be placed underground.
 13. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
 14. Visible and reflective colored objects such as flags, reflectors or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten (10') feet from the ground.
 15. The Applicant shall make reasonable efforts to avoid any disruption or loss of radio, telephone, television or similar signals and shall mitigate any harm caused by the Wind Turbine.
 16. When a building is necessary for storage cells or related mechanical equipment, the building must not exceed 144 sq. ft., 10 feet in height, and must not be located within any required front, side or rear setbacks.
 17. The resulting energy harnessed from the wind shall only be used on the property on which the Wind Turbine is located.
 18. The Wind Turbine shall comply with all other applicable regulations and requirements as set forth in the Zoning Ordinance.
 19. The landowner shall, at his expense, complete decommissioning of the Wind Turbine within twelve (12) months after the end of the useful life of the Wind Turbine. It shall be presumed that the Wind Turbine is at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.
 20. Decommissioning of the Wind Turbine shall include removal of the Wind Turbine, buildings, cabling, electrical components, roads, foundations, and any other associated facilities.
 21. The Wind Turbine shall be subordinate to and located on the same lot occupied by the principal use to which it relates.
 22. For lots in excess of one (1) acre, one (1) Wind Turbine shall be permitted for each acre

- making up that lot.**
- 23. Audible sound from a Wind Turbine shall not exceed fifty-five (55) dBA at the subject property line. Measuring and acoustic emissions shall be governed by the Ebensburg Borough Noise Ordinance.**

ARTICLE VII - SIGNS**Section 701. SIGN PERMITS AND FEES**

No person, firm, corporation or organization shall affix any poster, sign, notice, billboard or other similar item to any public utility pole, sign pole or post, fire hydrant, tree, public building or any other structure in any public place in the Borough of Ebensburg without first having obtained a Permit from the Borough. (unless otherwise exempted in this Article)

The application for all Permits shall state the length of time for which the permit is desired to be issued and the name of the person, firm, corporation or organization responsible therefor, and such other complete information as the Borough shall deem necessary to issue any permit. Application to the Zoning Officer shall be processed within two (2) weeks upon receipt of the written request to erect a sign and payment of a fee as predetermined from a fee schedule adopted by Ebensburg Borough Council (provided the size and design of the sign is in conformity with the provisions of this Article and all other effective and applicable Ordinances). Refusal to issue a Permit shall include a written statement to the applicant containing the reasons for denial.

Negligence to apply for a sign permit is punishable by a fine as prescribed by the Ebensburg Borough Council and payable to said Council. Payment of said fine does not grant approval to erect a sign.

Nothing in this Article/Ordinance shall be interpreted as meaning that the Borough of Ebensburg conveys or gives to any person, firm, corporation or organization, the right to use any pole, post, fire hydrant, tree, public building or other structure without first obtaining permission from the owner or owners thereof.

Section 702. SIGNS EXEMPT FROM SIGN PERMIT “APPLICATION AND FEES”

- A. Signs erected or required by the local, state, or federal government.
- B. On or off-site signs erected for public information, safety, or direction by any public utility.
- C. Temporary signs such as real estate for sale or rent, political candidate signs, auction sale signs; common, temporary residential signs (i.e. birth announcement, graduation party or similar type event) but only for a maximum of seven (7) consecutive days.
- D. Temporary signs for retail business establishments running a special sale/event for very limited time only;
- E. Holiday signs and decorations with no commercial message; and
- F. Traffic control signs on private property, such as “stop” or “yield” and similar signs, the face of which must meet the PA Department of Transportation standards and which contain no commercial sign of any sort.

Section 703. VIOLATION IF SIGN REMAINS BEYOND PERMIT TIME LIMIT

If any person, firm, corporation or organization shall leave any poster, sign, notice, billboard or any similar item affixed to any public utility pole, sign pole or post, fire hydrant, tree, public building, or other structure in any public place in the Borough of Ebensburg beyond the length of time specified in the permit, such person, firm, corporation or organization shall be in violation of this Article/Ordinance.

Any person, firm, corporation or organization who shall violate any of the provisions of this Article/Ordinance shall, upon conviction, be sentenced to pay a fine of not more than twenty-five (\$25) dollars per each day the violation continues plus costs of prosecution, and, in default of payment of such fine and costs, to be subject to imprisonment for not more than ten (10) days. Each day any such violation shall be permitted to exist shall constitute a separate offense.

Section 704. FORFEITURE OF SIGNS LOCATED IN PUBLIC RIGHTS-OF-WAY

Any sign installed or placed on public property, except in conformance with the requirements of this Article, shall be forfeited to the Borough and subject to confiscation. The Borough shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of the sign.

Section 705. REPAIR OR REPLACEMENT OF A CONFORMING SIGN

A sign that conforms with the requirements of this Ordinance may be; 1) repaired, 2) repainted, 3) removed for repair and then re-mounted, or 4) replaced with an identical sign without any permits. Note that this ordinance considers replacing a sign with a non-identical sign to be the same as erecting a new sign. Thus, such a replacement may or may not require a Zoning Permit, depending on the type and location of the involved sign.

Section 706. CALCULATING SQUARE FOOTAGE FOR BUILDING FRONTAGE

Calculating the square footage for signage use for commercial buildings shall be based upon the "Building Frontage", which is measured from end-to-end of the building's foundation that is exposed to any abutting streets.

A building on an "interior lot" may have only one (1) abutting street (the front street) or it may be a "through lot" abutting two (2) streets (the front street and a rear street).

A building on a corner lot will have a minimum of two (2) or three (3) abutting streets, the front, the side and the rear street. (It may not have a rear street if the parcel directly abuts another parcel)

A building contained within the entire block would obviously have four (4) abutting streets.

Examples of how to calculate the square footage for signs on a typical corner lot is as follows:

Front Street: If the "Building Frontage" (width of the building at the "front" street) is fifty (50') feet then the total combined square footage for all signs that may be placed on that front wall is fifty (50) square feet maximum.

Side Street: If the "Building Frontage" (width of the building at the "side" street) is sixty (60') feet then the total combined square footage for all signs that may be placed on that side wall is sixty (60) sq. ft. maximum.

Rear Street: If the "Building Frontage" (width of the building at the "rear" street) is fifty (50') feet then the total combined square footage for all signs that may be placed on that rear wall is fifty (50) sq. ft. maximum.

The total combined square footage for this example building is 160 square feet of signage.

If the above example business did not want to put ALL of it's signage on the building walls, then it would simply reduce the signage maximums all around (or eliminate one or more walls/sides) as it sees appropriate, and utilize the saved square footage as a freestanding sign. However, no freestanding sign may exceed forty (40) square feet in the CBD District.

Section 707. PROHIBITED SIGNS

- A. All signs that are not expressly permitted under this Ordinance are prohibited in the Borough.
- B. Off-premise advertising signs are prohibited in all Zoning Districts, except as provided for billboards under Section 716.

(Ord. 574, 6/28/2010; as amended by Ord. 617, 01/26/2015)

Section 708. ABANDONED SIGNS

If a conforming use has been discontinued for a total of twelve (12) months, then all signs that are related to that use, as well as any structures that support these signs, shall be known as "abandoned signs." Likewise, if a non-conforming use has been abandoned as described in Article III, Section 306, "Non-conforming Use of Land", paragraph "2", then all signs that are related to that use, as well as any structures that support these signs, shall be known as "abandoned signs." All abandoned signs shall be removed at the expense of their owners. If such a sign is not removed, the Zoning Officer shall enforce the requirements of this Section via the procedure given in Section 206 Enforcement".

Section 709. NON-CONFORMING SIGNS

A. Applicability

The requirements of this Section only apply to non-conforming signs. A non-conforming sign is defined as a sign that; 1) was legally established before the effective date of this Ordinance's enactment (see Section 110, "The Effective Date of This Ordinance's Enactment") and 2) due to said Ordinance enactment no longer conforms to the requirements of this Article or any other provision of this Ordinance. Because the said non-conforming signs are not illegal, they have a right to remain in place and to be maintained. However, they must adhere to the requirements of this Section.

B. Non-conforming Status

The following rules apply to or concern all non-conforming signs.

1. The Zoning Officer may keep and maintain a list of all non-conforming signs that exist in the Borough as of the date of this Ordinance's enactment and on the effective dates of any relevant amendments to either this Ordinance or its Map.
2. Any sign that was illegally erected or painted under a previous Zoning Ordinance or land use regulation, because a permit was not issued, shall remain illegal under this Ordinance, even if it conforms to this Ordinance's regulations.

3. Any sign that becomes a non-conforming sign due to any Amendment made after the effective date of this Ordinance's enactment shall be subject to the regulations of this Section.

C. Maintaining Legal Non-conforming Signs

The following rules apply to all non-conforming signs.

1. If any legal, non-conforming sign deteriorates to an unsightly or hazardous condition, the owner of that sign shall repair, repaint or remove it for repair. If the Borough Zoning Officer finds that such a sign has not been repaired, repainted or removed for repair, he or she shall enforce this requirement via the procedures given in Section 206, "Enforcement".
2. A legal, non-conforming sign may be; 1) repaired, 2) repainted, or 3) removed for repair and then re-mounted without obtaining a Zoning Permit.
3. Nothing in this section grants the right to technological upgrades. Technological upgrades are the same as erecting a new sign.

D. Replacing Non-conforming Signs

1. Replacing a temporary non-conforming sign with an identical temporary non-conforming sign does not require any permits. However, replacing a permanent, non-conforming sign with an identical permanent, non-conforming sign does require a Zoning Permit. Section 202, "Zoning Permits", explains how to obtain a Zoning Permit. Note that this Ordinance considers replacing a non-conforming sign with a non-identical sign to be the same as erecting a new sign. Thus, such a replacement may or may not require a Zoning Permit, depending on the type and location of the involved sign.

E. Enlarging, Relocating, or Altering Non-conforming Signs

1. A non-conforming sign shall not be enlarged or relocated within the Borough.
2. A non-conforming sign shall not be altered in any aspect except; a) to make safety improvements, b) to keep the sign maintained in accordance with the requirements of this Section or other Borough Ordinances, or c) to bring the sign into conformance with the requirements of this Ordinance.
3. Nothing in this section grants the right to technological upgrades. Technological upgrades are the same as erecting a new sign.

F. Bringing a Non-conforming Sign into Conformance

If a non-conforming sign is altered so that it becomes a conforming sign, it shall not be subsequently altered back to a non-conforming state. Likewise, if a non-conforming sign is replaced with a conforming sign, that conforming sign shall not be subsequently replaced with another non-conforming sign.

G. Abandoned Non-conforming Signs

If a conforming use has been discontinued for a total of twelve (12) months, then all non-conforming signs that are related to that use, as well as any structures that support these signs, shall be known as "abandoned non-conforming signs." Likewise, if a non-conforming use has been abandoned as described in Article III, Section 306, "Non-conforming Use of Land", paragraph "2", then all non-conforming signs that are related to that use, as well as any structures that support these signs, shall be known as "abandoned non-conforming signs." All abandoned non-conforming signs shall be removed at the expense of their owners. If such a sign is not removed, the Zoning Officer shall enforce this requirement via the procedures given in Section 206, "Enforcement".

Section 710-714. SIGNS REGULATIONS IN SPECIFIC ZONING DISTRICTS

See following pages for regulations applicable to signs in each zoning district.

| Section 710 - R-SH DISTRICT SIGNS | | |
|--|--|---|
| <i>PERMANENT AND TEMPORARY SIGNS</i> | | |
| <i>Principal Use of Property</i> | | |
| Maximum Sign Area for all signs combined | Not permitted | Residential dwelling uses, No-Impact Home Based Business |
| | Six (6) Sq. feet | Bus shelters, forestry activities, open spaces |
| | Six (6) Sq. feet | Minor-impact home based businesses |
| | Twelve (12) Sq. feet | Other uses by special exception |
| Number of Signs | One | |
| Location on Lot | No sign shall be closer than four (4') feet to a property line if no sidewalk exists AND no closer than three (3') feet from the inside edge of an existing sidewalk. | |
| Free-Standing Signs | The bottom of any sign shall not be more than two (2') feet above ground grade. | |
| Projecting or Extending from a Bldg. | Shall not extend further than two (2') feet and shall be a minimum of eight (8') feet above ground/sidewalk level | |
| Illuminated Signs | Not permitted | |
| Reflective Signs | Not permitted | |
| Traffic - Directional Type Signs | Common signs guiding or directing traffic and/or parking, but bearing no advertising matter may be permitted as determined by the Zoning Officer that they do not interfere with official Ebensburg Borough signs of a similar nature. | |
| Other Prohibited Signs | Animated, Billboard, Directory, Flashing, Ghost, Inflatable, Illuminated, Mural, Pole, Projection, Video, Wall Sign, Wind, or Window prohibited | |
| <p>Note: In addition to the other requirements of this section, every sign referred to herein:</p> <ol style="list-style-type: none"> 1) Must NOT be located within a public right-of-way; 2) Must NOT be located in the "clear-sight-triangle" of a corner lot if exceeding three and one-half (3 ½) feet in height above the finished paved area at the center of the roadway; 3) Must NOT extend over onto the public sidewalk or right of way; 4) Must BE constructed of durable materials, kept in good repair and not permitted to become dilapidated; and 5) Must BE removed when the circumstances leading to its erection no longer applies. | | |

(Ord. 574. 6/28/2010; as amended by Ord. 617, 01/26/2015)

| Section 711 - R-MH DISTRICT SIGNS | | |
|--|---|--|
| <i>PERMANENT AND TEMPORARY SIGNS</i> | | |
| | <i>Principal Use of the Property</i> | |
| Maximum Sign Area for all signs combined | Not permitted | Residential dwellings, No-Impact Home Based Businesses |
| | Twelve (12) Sq. ft. | Residential (over 3 units) multi-households, apartments, low rise dwelling |
| | Six (6) Sq. feet | Bus shelters, forestry activities, open spaces, essential services and public utility buildings |
| | Six (6) Sq. feet | Minor-impact home based businesses and Day care facilities in-home |
| | Twelve (12) Sq. feet | Other uses by special exception |
| Number of Signs | One | |
| Location on Lot | No sign shall be closer than four (4') feet to a property line if no sidewalk exists AND no closer than three (3') feet from the inside edge of an existing sidewalk. | |
| Free-Standing Signs | The bottom of any sign shall not be more than two (2') feet above ground grade. | |
| Projecting or Extending from a Bldg. | Shall not extend further than two (2') feet and shall be a minimum of eight (8') feet above ground/sidewalk level. | |
| Illuminated Signs | Not permitted | |
| Reflective Signs | Not permitted | |
| Traffic - Directional Type Signs | Common signs guiding or directing traffic and/or parking, but bearing no advertising matter may be permitted as determined by the Zoning Officer that they do not interfere with official Ebensburg Borough signs of a similar nature. | |
| Other Prohibited Signs | Animated, Billboard, Directory, Flashing, Ghost, Inflatable, Illuminated, Mural, Pole, Projection, Video, Wall Sign, Wind, or Window prohibited | |
| Note: In addition to the other requirements of this section, every sign referred to herein: | | |
| 1) Must NOT be located within a public right-of-way; | | |
| 2) Must NOT be located in the “clear-sight-triangle” of a corner lot if exceeding three and one-half (3 ½) feet in height above the finished paved area at the center of the roadway; | | |
| 3) Must NOT extend over onto the public sidewalk or right of way; | | |
| 4) Must BE constructed of durable materials, kept in good repair and not permitted to become dilapidated; and | | |
| 5) Must BE removed when the circumstances leading to its erection no longer applies. | | |

(Ord. 574. 6/28/2010; as amended by Ord. 617, 01/26/2015)

| Section 712 – MX-VC DISTRICT SIGNS | | |
|---|--|--|
| <i>PERMANENT AND TEMPORARY SIGNS</i> | | |
| | <i>Principal Use of the Property</i> | |
| Maximum Sign Area for all signs combined | Not Permitted | Residential dwellings, No-impact Home Based Business |
| | Twelve (12) sq. ft. | Residential (over 3 units) multi-households, apartments, low rise dwelling |
| | Six (6) sq. ft. | Bus shelters, essential services and public utility buildings, forestry activities, open spaces |
| | See Section 706 | Other uses by right or special exception |
| Number of signs | Maximum of two | |
| Location on lot | No sign shall be closer than four (4') feet to a property line if no sidewalk exists, AND no closer than three (3') feet from the inside edge of an existing sidewalk. | |
| Free-Standing Signs | No sign shall exceed the height of the associated building or twenty-eight (28) feet, whichever is greater. | |
| Projecting or Extending from a building | Shall not extend further than four (4') feet and shall be a minimum of eight (8') feet above ground/sidewalk level. | |
| Illuminated Signs | Permitted. | |
| Reflective Signs | Permitted. | |
| A-Frame Signs | Permitted. May be placed upon a sidewalk or within a right-of-way. Shall be within ten (10') feet of the front door of the business. Maximum of one sign per storefront. The sign location shall not block or restrict passageway along the sidewalk to less than four (4') feet. Limited to a maximum area of 10 sq. ft. and maximum height of four (4') feet. Sign limited to entity's business hours and shall be moved inside after hours. The Borough is authorized to remove any A-Frame sign without prior notice, within the sole discretion of the Borough, where such sign is impeding pedestrian traffic, is not well maintained, is not deemed appropriate for the neighborhood, or is otherwise utilized in a manner contrary to public safety. | |

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|---|--|
| On-Premise Electronic Message Center/Digital Sign | <p>Permitted. Moving, flashing, scrolling or intermittent lights are prohibited.</p> <p>All messages/displays shall remain unchanged for a minimum of eight (8) seconds.</p> <p>The transition period between messages shall be one (1) second or less.</p> <p>There shall be no appearance of a visual dissolve or fading.</p> <p>There shall be no appearance of flashing or sudden bursts of light, and no appearance of animation, movement, or flow of the message/display.</p> <p>Must possess automatic brightness control keyed to ambient light levels.</p> <p>The maximum brightness level shall not exceed 0.2 foot candles measured at the distance recommended by the ISA, depending upon sign size.</p> <p>Certification must be provided to the Borough demonstrating that the sign has been preset to automatically adjust the brightness to these levels. Re-inspection and recalibration may be periodically required by the Borough in its reasonable discretion, at the permittee's expense, to ensure that the specified brightness levels are maintained at all times.</p> |
| Traffic-Directional Type Signs | <p>Common signs guiding or directing traffic and/or parking, but being no advertising matter may be permitted as determined by the Zoning Officer that they do not interfere with official Ebensburg Borough signs of a similar nature.</p> |
| Other Prohibited Signs | <p>Animated, Billboard, Directory, Flashing, Ghost, Inflatable, Projection or Video prohibited</p> |
| <p>Note: In addition to the other requirements of this section, every sign referred to herein:</p> <ol style="list-style-type: none"> 1) Must NOT be located within a public right of way; 2) Must NOT be located in the "clear site triangle" of a corner lot if exceeding three and one half (3 ½) feet in height above the street center line; 3) Must NOT extend over onto the public sidewalk or right of way; 4) Must BE constructed of durable materials, kept in good repair and not permitted to become dilapidated; and 5) Must BE removed when the circumstances leading to its erection no longer applies. | |

(Ord. 574. 6/28/2010; as amended by Ord. 617, 01/26/2015)

| Section 713 - CBD DISTRICT SIGNS | | |
|--|---|---|
| <i>PERMANENT AND TEMPORARY SIGNS</i> | | |
| <i>Principal Use of the Property</i> | | |
| Maximum Sign Area for all signs combined | Not Permitted | Residential dwellings, No-impact Home Based Business |
| | Twelve (12) square feet | Residential (over 3 units) multi-households, apartments, low rise dwelling |
| | See Section 706 | Other uses by right or special exception |
| Number of Signs | Maximum of two (2) | |
| Location on Lot | No sign shall be closer than two (2') feet to a property line if no sidewalk exists AND no closer than two (2') feet from the inside edge of an existing sidewalk, unless mounted on a building that is closer to said property line or sidewalk. | |
| Free-Standing Signs | No sign shall exceed the height of the associated building or twenty-eight (28') feet whichever is greater. | |
| Projecting or Extending from a Bldg. | Shall not extend further than four (4') feet and shall be a minimum of eight (8') feet above the ground/sidewalk level. | |
| Illuminated Signs | Permitted. See Section 715. | |
| Reflective Signs | Permitted | |
| A-Frame Signs | Permitted. May be placed upon a sidewalk or within a right-of-way. Shall be within ten (10') feet of the front door of the business. Maximum of one sign per storefront. The sign location shall not block or restrict passageway along the sidewalk to less than four (4') feet. Limited to a maximum area of 10 sq. ft. and maximum height of four (4') feet. Sign limited to entity's business hours and shall be moved inside after hours. The Borough is authorized to remove any A-Frame sign without prior notice, within the sole discretion of the Borough, where such sign is impeding pedestrian traffic, is not well maintained, is not deemed appropriate for the neighborhood, or is otherwise utilized in a manner contrary to public safety. | |
| On-Premise Electronic Message Center/Digital Sign | Prohibited. | |
| Traffic - Directional Type Signs | Common signs guiding or directing traffic and/or parking, but bearing no advertising matter may be permitted as determined by the Zoning Officer that they do not interfere with official Ebensburg Borough signs of a similar nature. | |

| | |
|---|--|
| Other Prohibited Signs | Animated, Billboard, Directory, Flashing, Ghost, Inflatable, Pole, Projection, Video, Wind, or Electronic Message Board/Digital prohibited. |
| Note: In addition to the other requirements of this section, every sign referred to herein: 1) Must not be located within a public right-of-way; 2) Must NOT be located in the “clear site triangle” of a corner lot if exceeding three and one half (3 ½) feet in height above the street center line; 3) Must be constructed of durable materials, kept in good repair and not permitted to become dilapidated; and 4) Must be removed when the circumstances leading to its erection no longer applies. | |

(Ord. 574. 6/28/2010; as amended by Ord. 617, 01/26/2015)

| Section 714 - O-C DISTRICT SIGNS | | |
|--|--|--|
| <i>PERMANENT AND TEMPORARY SIGNS</i> | | |
| <i>Principal Use of the Property</i> | | |
| Maximum Sign Area for all signs combined | Not permitted | Residential uses and no-impact home based businesses |
| | Eighteen (18) sq. feet | Other permitted uses |
| Number of Signs | Maximum of two (2) | |
| Location on Lot | No sign shall be closer than four (4') feet to a property line if no sidewalk exists AND no closer than three (3') feet from the inside edge of an existing sidewalk. | |
| Free-Standing Signs | The bottom of any sign shall not be more than two (2') feet above ground grade. | |
| Projecting or Extending from a Bldg. | Shall not extend further than four (4') feet and shall be a minimum of eight (8') feet above the ground/sidewalk level. | |
| Illuminated Signs | Not Permitted | |
| Reflective Signs | Not permitted. | |
| Traffic - Directional Type Signs | Common signs guiding or directing traffic and/or parking, but bearing no advertising matter may be permitted as determined by the Zoning Officer that they do not interfere with official Ebensburg Borough signs of a similar nature. | |
| Other Prohibited Signs | Animated, Billboard, Directory, Flashing, Ghost, Inflatable, Illuminated, Mural, Pole, Projection, Video, Wall Sign, Wind, or Window prohibited | |
| <p>Note: In addition to the other requirements of this section, every sign referred to herein:</p> <ol style="list-style-type: none"> 1) Must not be located within a public right-of-way, nor in the "clear-sight-triangle" of a corner lot; 2) Must not extend over or onto the public sidewalk or right of way; 3) Must be constructed of durable materials, kept in good repair and not permitted to become dilapidated; and 4) Must be removed when the circumstances leading to its erection no longer applies. | | |

(Ord. 574. 6/28/2010; as amended by Ord. 617, 01/26/2015)

Section 715. HISTORIC CHARACTER OVERLAY DISTRICT SIGNS**A. Introduction**

These design guidelines apply to all exterior signs within the Historic Character Overlay District in Ebensburg Borough. The goal of the regulations is to meet the needs of various interests in the community by providing guidance in determining the suitability and architectural compatibility of proposed signs, while at the same time, allowing for reasonable changes to individual signs and sites that meet current needs. For property owners, architects, designers and contractors, they provide guidance in planning and designing future projects. For Borough staff and the Main Street Partnership, they provide an outline through which projects can be evaluated for compliance with Zoning Ordinance standards. Further, they provide the community as a whole with an idea of what to expect when signs are proposed in historic districts or landmark sites.

B. Applicability

These design regulations apply to the exterior signs, including window signs, within the Historic Character Overlay District in Ebensburg Borough, including new signs and the rehabilitation of existing signs. The Ebensburg Main Street Partnership has the authority to regulate signs to ensure that new and altered signs are appropriate for the historic setting and the character of the neighborhood.

All signs in the Historic Character Overlay District must meet the provisions of the Ebensburg Borough Zoning Ordinance, as well as receive a Certificate of Appropriateness from the Ebensburg Main Street Partnership. Certificate of Appropriateness review will determine whether a sign proposal meets the context of these regulations. A building permit review will determine whether the sign complies with the International Building Code.

If aggrieved by the decision of the Ebensburg Main Street Partnership, the applicant may request a hearing before the Zoning Hearing Board.

C. Objectives

These regulations are intended to help both private and public projects preserve and enhance the form, scale, and visual character that make Ebensburg Borough unique. These regulations have been adopted to achieve the following objectives:

1. To ensure that all signs within the Historic Character Overlay District or on landmark sites are compatible with the special character of Ebensburg Borough's historic past.
2. To help convey the sense of excitement and vitality envisioned for the Historic Character Overlay District.
3. Encourage signs which, by their appropriate design, are integrated with and harmonious to the buildings and sites which they occupy.
4. Preserve and improve the appearance of the Borough as an historic community in which to live and work.

5. Allow each individual business to clearly identify itself and the goods and services which it offers in a clear and distinctive manner.
6. To promote signs as pedestrian oriented rather than automotive, which is consistent with the historic character.
7. Ensure that the installation of a sign does not damage the historic fabric, nor detract from the historic character of the Historic Character Overlay District or landmark site.

D. Certificate of Appropriateness

A Zoning Permit shall be required for all new and altered signs. Prior to the Zoning Officer issuing a permit, a Certificate of Appropriateness must be obtained from the Ebensburg Main Street Partnership. In order to obtain a Certificate of Appropriateness, the new or altered sign must comply with the Ebensburg Borough Signage Guidelines, a document hereby made part of the Ebensburg Borough Zoning Ordinance.

(Ord. 574, 6/28/2010; as amended by Ord. 617, 01/26/2015)

Section 716. BILLBOARD SIGN OVERLAY DISTRICT

A. Description of District

The Billboard Sign Overlay District is comprised of four distinct areas of the Borough. Those are:

1. Route #422 (Ben Franklin Highway) between West High Street and the borough boundary.
2. Route #22 (Rowena Drive) between the Route #22 westbound entrance ramp and the borough boundary.
3. North Center Street between Fairview Street and the borough boundary.
4. Route #22 (Admiral Peary Highway) between South Center Street and New Germany Road.

B. Rules Relative to Billboards

Billboards may be erected only within the Billboard Sign Overlay District, provided that they must meet all of the following conditions. For purposes of these conditions, double-faced billboards (i.e., structures with back-to-back faces containing or able to contain advertising) and V-shaped billboards having only one face visible to traffic proceeding from any given direction on a street shall be considered as one (1) billboard. Otherwise, billboards having more than one (1) face, including billboards with tandem (side-by-side) or stacked (one-above-the-other) faces, shall be considered as multiple billboards and shall be prohibited in accordance with the minimum spacing requirement set forth below. A billboard's surface display area containing or able to contain advertising shall be considered to be the billboard's face(s).

1. Not more than three (3) billboards may be located per any given linear mile of street, regardless of the fact that such billboards may be located on different sides of the street. The linear mile measurement shall not be limited to the Borough's boundaries if the particular street extends beyond such boundaries.
2. No billboard may be located within one thousand three hundred twenty (1,320') feet of another billboard, regardless of the fact that any two (2) such billboards may be located on opposite sides of the street from each other. The one thousand three hundred twenty (1,320') feet measurement shall not be limited to the Borough's boundaries.
3. No billboard may be located within two hundred fifty (250') feet of any residential zoning districts, of a pre-existing dwelling, of a pre-existing church or of a pre-existing school. If the billboard is illuminated, the required distance shall be increased to three hundred fifty (350') feet.
4. No billboard may be located closer to a street than seventy-five (75') feet from the front lot line adjoining the street. No billboard may be located closer than ten (10) feet or the height of the billboard from any other property line of the lot on which the billboard is located, whichever is greater.
5. A billboard's face may not exceed three hundred (300) square feet. Double-faced billboards and V-shaped billboards may have two (2) faces, but neither one may exceed three hundred (300) square feet.
6. The bottom of the billboard's face must be at least twenty (20') feet above the grade of the ground upon which the billboard sits, or above the grade of the abutting street, whichever is higher. The top of the billboard's face may not be more than thirty five (35') feet above the grade of the ground upon which the billboard sits, or above the grade of the abutting street, whichever is higher.
7. Where an interpretation is needed as to exact location of the boundaries of the Billboard Sign Overlay District in relation to a given parcel, the Zoning Officer shall make an initial determination. Any person seeking such a determination may submit a survey of the property and any pertinent documentation for consideration.
8. Any person aggrieved by any such determination of the Zoning Officer may appeal to the Zoning Hearing Board. The person contesting the location of the Billboard Sign Overlay District boundary shall have the burden of proof in case of any such appeal.
9. The owner of any billboard shall be required to obtain a Highway Occupancy Permit from PennDOT for the billboard, and comply with all PennDOT regulations relative to erection of billboards along State highways.
10. The owner of any billboard sign shall be required to have it properly painted at least once every two years; all parts and supports of said sign, unless the same are galvanized or otherwise treated to prevent rust.

11. **Any billboard which no longer advertises a bona fide business conducted, or a product sold, shall be taken down and removed by the property owner, agent or person having the beneficial use of the property within ten days after written notification from the building inspector. Upon failure to comply with such notice within the time specified in such order, the Building Inspector may cause the removal of such billboard and any expense incident thereto shall be paid by the owner of the property to which sign is located.**

(Ord. 574. 6/28/2010; as amended by Ord. 617, 01/26/2015)

Section 717. DEFINITIONS RELATIVE TO SIGNS

Animated Sign: A sign, excluding an electronic changeable copy sign, which involves motion or rotation of any part by mechanical or artificial means or which displays flashing or intermittent lights.

Awning Sign: A sign that is painted on or otherwise made part of the awning material. Signage is limited to the vertical portions of the awning; the sides and the front valance. No signage shall protrude beyond the vertical face.

Billboard: A form of an off-premises sign. A freestanding ground sign located on industrial, commercial or residential property if the sign is designed or intended to direct attention to a business, product or service that is not sold, offered or existing on the property where the sign is located.

Directory Sign: A sign on which the names and locations of occupants or the use of a building or property are identified, but which does not include any advertising message.

Flashing Sign or Lights: A sign that contains an intermittent or flashing light source that may also include the illusion of intermittent or flashing light by means of animation or externally mounted intermittent light sources.

Ghost Sign: A sign painted on an exterior building wall, which has been weathered and faded to the extent that it has lost its original brightness of color and visibility.

Historic Replication Sign: A sign, which is an exact replication, including materials and size, of a historic sign which once existed in the same location.

Historic Sign: A sign that by its construction materials, age, prominent location, unique design, or craftsmanship, provides historic character, individuality, and a sense of place or orientation regarding clues to a building's history.

Inflatable Sign or Display: Any inflatable object used for signs or promotional purposes.

Internally Illuminated Sign: A sign which has characters, letters, figures, designs or outlines internally illuminated by electric lights, luminous tubes or other means as a part of the sign itself.

Menu Board: Small scale sign boxes containing menus generally located near the primary entrance to a restaurant.

Monument Sign: A sign that is supported by one or more uprights or braces which are fastened to, or embedded in the ground or a foundation in the ground and not attached to any building or wall.

Mural: A work of art, such as a painting applied directly to a wall, fence, pavement, or similar surface that is purely decorative in nature and content, and does not include advertising by picture or verbal message.

Pole Sign: A freestanding sign other than a monument sign erected and maintained on a mast(s) or pole(s) and not attached to any building.

Projecting Sign: A sign attached to a building or other structure whose sign face is displayed perpendicular or at an angle to the building wall.

Projection Sign: A sign which projects a visual image or message onto a surface.

Sign Area: Includes all visible components including support material from bottom to top and/or on both sides.

Temporary Sign: Any exterior sign, banner, pennant, valance or advertising display constructed of paper, cloth, canvas, light fabric, cardboard, wallboard or other light materials, with or without light frames, intended to be displayed for a short period of time. Examples of temporary signs include: an A-frame sign; balloon; secured banner; unsecured banner; public event banner; garage/yard sale sign; political sign; real estate sign; special event sign.

Video Sign: Animated visual messages that are projected on a screen.

Wall Sign: A sign with messages or copy erected parallel to and attached to or painted on the outside wall of a building.

Wall Plaque: A small-scale sign often embedded into the wall covering of a building that displays information pertaining to the building.

Wind Sign: Any propeller, whirling, or similar device that is designed to flutter, rotate, or display other movement under the influence of the wind. This shall include “pennant flags”, or banners.

Window Sign: A sign inside of or attached to the interior of a transparent glazed surface (window or door) oriented to the outside of the building. A display window that does not include signs shall not be considered a sign.

(Ord. 574. 6/28/2010; as amended by Ord. 617, 01/26/2015)

ARTICLE VIII – PLANNED RESIDENTIAL DEVELOPMENT**SECTION 801. PURPOSE**

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

SECTION 802. GRANT OF POWER

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

SECTION 803. STANDARDS AND CONDITIONS

Panned Residential Development may be permitted by the Borough in a R-MH Residential District subject to the requirements set forth in this Ordinance and as provided by Article VII, Pennsylvania Municipalities Planning Code, Act 247 as amended.

A. Minimum Overall Lot Size

The minimum overall lot size for any planned residential development shall be twenty (20) acres.

B. Permitted Uses

1. Single-household detached dwellings.
2. Two-household detached dwellings.
3. Multiple row dwellings, townhouses, and garden apartments with a maximum of eight (8) units per building.
4. Multi-story apartments not to exceed sixty (60) feet above ground in height.
5. Community buildings which are for the social, cultural, or recreational use of the residents of the development.

- 6. Open space and recreation facilities developed and maintained principally for use of residents of the development.**
- 7. Certain non-residential uses such as buildings for convenience shopping and personal services provided that such uses along with required parking occupy not more than ten percent (10%) of the total land area of the development.**

C. Dwelling Standards

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

D. Density

The dwelling unit density shall conform to the following:

- 1. Single household - five (5) units per acre.**
- 2. Two-household - ten (10) units per acre.**
- 3. Row dwelling - fifteen (15) units per acre.**
- 4. Multi-story dwellings - twenty-nine (29) units per acre.**
- 5. For mixed types of structures the overall density may not exceed twelve (12) units per acre.**

E. Public Open Space Standards

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

F. Setback Requirements

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

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

G. Minimum Distance Between Buildings:

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

1. Front to front - seventy (70) feet; front to rear - sixty (60) feet.
2. Side to side - one-half ($\frac{1}{2}$) of the height of the tallest building but not less than twenty-five (25) feet.
3. Front to side or rear to side - the height of the tallest building but not less than thirty-five (35) feet.
4. Rear to rear - fifty (50) feet.

H. Percentage of Lot Coverage

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

I. Design Engineering

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

1. Engineering Site Plan Required

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

2. Perimeter Survey

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

3. Street Paving

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

4. Street Signs and Street Lights

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

5. Water Requirements

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

6. Water Lines and Fire Plugs

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

7. Sanitary Sewers

The installation of all sanitary sewers (if applicable) shall be in accord with detailed engineering plans and specifications submitted to and approved by the local sewer company or authority.

8. Storm Sewers

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

9. Off-Street Parking and Loading Facilities

Shall be provided as required or permitted under this Ordinance.

SECTION 804. ENFORCEMENT AND MODIFICATION

- A. To further the mutual interest of the residents of the Planned Residential Development and of the public in the preservation of the integrity of the development plan, as finally approved, and to ensure that modifications, if any, in the development plan shall not impair the reasonable reliance of the said residents upon the provisions of the development plan, nor results in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the development plan as finally approved, whether those are recorded by plat, covenant, easement or otherwise shall be subject to the following provisions.**
- B. The provisions of the development plan relating to the following elements shall run in favor of the Borough and shall be enforceable in law or in equity by the Borough, without limitation on any powers of regulation otherwise granted by the Borough by law:**

1. The use, bulk, and location of buildings and structures;
 2. The quantity and location of common space, except as otherwise provided in this article;
 3. the intensity of use or the density of residential units;
 4. The interest of the Borough in protecting the health, safety, and welfare of its residents; and
 5. Any dissolution of an association formed to administer development requirements.
- C. All provisions of the development plan shall run in favor of the residents of the Planned Residential Development but only to the extent expressly provided in the development plan and in accordance with the terms of the development plan, and to that extent said provisions, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or equity by said residents acting individually, jointly, or through an organization designated in the development plan to act on their behalf; provided, however, that no provisions of the development plan shall be implied to exist in favor of residents of the Planned Residential Development except as to those portions of the development plan which have been finally approved and have been recorded.
- D. All those provisions of the development plan authorized to be enforced by the Borough under this section may be modified, removed, or released by the Borough, except grants or easements relating to the service or equipment of a public utility, subject to the following conditions:
1. No such modification, removal or release of the provisions of the development plan by the Borough shall affect the rights of the residents of the Planned Residential Development to maintain and enforce those provisions, at law or equity, as provided in this section.
 2. No modification, removal, or release of the provisions of the development plan by the Borough shall be permitted except upon a finding by the Ebensburg Borough Council or the Ebensburg Planning Commission following a public hearing thereon pursuant to public notice called and held in accordance with the provisions of this article, that the same is consistent with the efficient development and preservation of the entire Planned Residential Development, does not adversely affect either the enjoyment of land abutting upon or across the street from the Planned Residential Development or the public interest, and is not granted solely to confer a special benefit upon any person.
- E. Residents of the Planned Residential Development may, to the extent and in the manner expressly authorized by the provisions of the development plan, modify, remove or release their rights to enforce the provisions of the development plan but no such action shall affect the right of the Borough to enforce the provisions of the development plan in accordance with the provisions of this section.

SECTION 805. APPLICATION FOR TENTATIVE APPROVAL

- A. An application for tentative approval of the development plan for a Planned Residential Development shall be filed by or on behalf of the landowner.
- B. The application for tentative approval shall be filed by the landowner on such form as provided by the Borough.

- C. All planning, zoning, and subdivision matters relating to the platting, use, and development of the Planned Residential Development and subsequent modifications of the regulations relating thereto, to the extent such modification is vested in the Borough, shall be determined and established by the governing body or the Planning Commission, if designated by the Governing Body.**
- D. The provisions shall require only such information in the application as is reasonably necessary to disclose to the governing body or the Planning Commission:**
- 1. the location, size and topography of the site and the nature of the landowner's interest in the land proposed to be developed;**
 - 2. the density of land use to be allocated to parts of the site to be developed;**
 - 3. the location and size of the common open space and the form of organization proposed to own and maintain the common open space;**
 - 4. the use and the approximate height, bulk, and location of buildings and other structures;**
 - 5. the feasibility of proposals for water supply and the disposition of sanitary waste and storm water;**
 - 6. the substance of covenants, grants of easements or other restrictions proposed to be imposed upon the use of the land, buildings, and structures including proposed easements or grants for public utilities;**
 - 7. the provisions for parking of vehicles and the location and width of proposed streets and public ways;**
 - 8. the required modification in the municipal land use regulations otherwise applicable to the subject property;**
 - 9. the feasibility of proposals for energy conservation and the effective utilization of renewable energy sources; and**
 - 10. in the case of development plans which call for development over a period of years, a schedule showing the proposed times within which applications for final approval of all sections of the Planned Residential Development are intended to be filed and this schedule must be updated annually, on the anniversary of its approval, until the development is completed and accepted.**
- E. The application for tentative approval of a Planned Residential Development shall include a written statement by the landowner setting forth the reasons why, in his opinion, a Planned Residential Development would be in the public interest and would be consistent with the comprehensive plan or community development objectives of the Borough.**
- F. The application for and tentative and final approval of a development plan for a Planned Residential Development described in this article shall be in lieu of all other procedures or approvals, otherwise required pursuant to Articles V and VI of the PA Municipalities Planning Code, Act 247 as amended.**
- G. Within 60 days after the filing of an application for tentative approval of a Planned Residential Development, a public hearing pursuant to public notice on said applicants shall**

be held by the Borough (or Planning Commission) in the manner prescribed in Section 708 of the PA Municipalities Planning Code, Act 247 as amended.

- H. The governing body, or the Planning Commission, within 60 days following the conclusion of the public hearing provided for in this article, shall, by official written communication to the landowner, either:
1. grant tentative approval of the development plan as submitted;
 2. grant tentative approval subject to specified conditions not included in the development plan as submitted; or
 3. deny tentative approval to the development plan. Failure to so act within said period shall be deemed to be a grant of tentative approval of the development plan as submitted. This official written communication shall also include all other information as required by Section 709 of the PA Municipalities Planning Code, Act 247 as amended.
- I. Tentative approval of a development shall not qualify a plat of the Planned Residential Development for recording nor authorize development or the issuance of any building permits. A development plan which has been given tentative approval as submitted, or which has been given tentative approval with conditions which have been accepted by the landowner (and provided that the landowner has not defaulted nor violated any of the conditions of the tentative approval), shall not be modified or revoked nor otherwise impaired by action of the Borough pending an application or applications for final approval, without the consent of the landowner, provided an application or applications for final approval is filed or, in the case of development over a period of years, provided applications are filed within the periods of time specified in the official written communication granting tentative approval.

SECTION 806. APPLICATION FOR FINAL APPROVAL

- A. An application for final approval may be for all the land included in a development plan or, to the extent set forth in the tentative approval, for a section thereof. Said application shall be made to the Borough Zoning Officer within the time or times specified by the official written communication granting tentative approval. The application shall include any drawings, specifications, covenants, easements, performance bond, and such other requirements as may be specified by Ordinance, as well as any conditions set forth in the official written communication at the time of tentative approval. A public hearing on an application for final approval of the development plan, or part thereof, shall not be required provided the development plan, or the part thereof, submitted for final approval, is in compliance with the development plan theretofore given tentative approval and with any specified conditions attached thereto.
- B. In the event the application for final approval has been filed, together with all drawings, specifications, and other documents in support thereof, and as required by the Ordinance and the official written communication of tentative approval, the Borough shall, within 45 days of such filing, grant such development plan final approval.
- C. In the event the development plan as submitted contains variations from the development plan given tentative approval, the approving body may refuse to grant final approval and shall, within 45 days from the filing of the application for final approval, so advise the landowner in writing of said refusal, setting forth in said notice the reasons why one or

more of said variations are not in the public interest. In the event of such refusal, the landowner may either:

1. refile his application for final approval without the variations objected; or
2. file a written request with the approving body that it hold a public hearing on his application for final approval.

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

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

ARTICLE IX - DEFINITIONS

ABUTTING: Where the lot lines of any parcel of land physically touch the lot lines of one or more additional parcels of land, those parcels shall be considered as “abutting” parcels. Abutting is the same as adjoining.

ACCESS: The place, means, or ways by which pedestrians, vehicles, or both shall have safe, adequate, and usable ingress/egress to a property or use. A private access is an access not in public ownership and controlled by means of deed, dedication, or easement.

ACCESSORY BUILDING/STRUCTURE: A structure detached from a principal building but located on the same lot. It serves as a customarily incidental and subordinate use to the use of the lot as a whole or the lot's principal building.

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

ADJACENT: Any lot or parcel of land, or any zoning district, which is situate beside, near, or directly across from another parcel of land, or zoning district, but separated by a street, alley, right-of-way, easement, utility, park or any other natural feature shall be considered an “adjacent” lot or zoning district.

ADJOINING: (Same as ABUTTING)

AISLE: The traveled way by which cars enter and depart parking spaces.

ALLEY: A public thoroughfare other than a side street, which affords only a secondary means of access to abutting property and not for general traffic circulation.

ALTERATION: An alteration may be a change in construction or a change in occupancy. When the term is used in connection with a change of occupancy, it is intended to apply to changes of occupancy from one trade or use to another. As applied to a building or structure, any change or rearrangement in the total floor area structural part, in the existing facilities, or in the enlargement, whether by extending a side, by increasing the height; or the moving from one location to another. (See also, ADDITION, BUILDING)

ALTERNATIVE TOWER STRUCTURE: Man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

AMATEUR RADIO ANTENNA/EQUIPMENT: Amateur radio equipment, including ham radio and CB equipment and antenna for personal use only by registered operators.

ANIMALS - DOMESTIC /HOUSEHOLD PETS: A domesticated animal that is normally, or can generally be, safely kept within the immediate living quarters of a residential structure. Domesticated mice and hamsters kept in cages are permitted. This term *excludes* any member of the swine, sheep, bovine (cows), poultry, fowl, equine family of quadrupeds, elephants, rhinoceros, hippopotamus, deer, or reptiles having a venomous or constrictor nature, or any large animals normally kept outside or on farms or breeding facilities.

APPEAL: A means for obtaining review of a decision, determination, order, or failure to act pursuant to the terms of this Ordinance.

APPLICANT: The person making application according to the regulations contained in this Ordinance and whose signature appears on any zoning application. The applicant may be someone other than the property owner if said person is duly authorized, in writing, to represent the owner.

APPLICATION: The submitting of an application, in a "complete state", for a permit or a service.

AREA, NET FLOOR: (as applied to off-street parking requirements) - the area used or intended for services to the public as customers, patrons, clients or tenants, including areas occupied for fixtures and equipment used for display or sale of merchandise. Floor areas may be excluded which are used exclusively for storage, housing of mechanical equipment integral with the building, for maintenance facilities, or for those areas so restricted that customers, patients, clients, salesmen and the general public are denied access.

AUTHORITY: A political or corporate body created pursuant to the Act of May 2, 1945 (P.L. 382, No. 164), known as "Municipality Authorities Act of 1945."

AUTOMOTIVE SALES: The use of any building, land area, or other premise for the display and sale of new or used automobiles, trucks, vans, trailers, or recreational vehicles, including any vehicle preparation or repair work conducted as an accessory use, and where the storage of "Junk" and/or "Junk Vehicles" is prohibited.

AUTOMOTIVE SERVICES: 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 public rest rooms and facilities used for polishing, greasing, washing, dry cleaning, or otherwise cleaning or servicing such motor vehicles. A business that engages in engine rebuilding, major reconditioning of broken or damaged motor vehicles or trailers, collision repair service (including body, frame, or fender straightening or repair), vehicle painting, replacement of parts, motor service to automobiles, and/or state inspections, commonly referred to as a Service Station. The storage of "Junk" and/or "Junk Vehicles" is prohibited.

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

BOARDING HOUSE - LODGING HOUSE: A building where, for compensation, lodging on a temporary basis, and meals are provided for at least four (4) but not more than sixteen (16) independent individuals. The primary function of the boarding house is to provide room and board. Residents are not involved in the day-to-day maintenance or operation of the boarding house and are not under the supervision or care of staff. Residents do not receive habilitative or rehabilitative services of any type at a boarding house. Relationships between residents are incidental, as opposed to an essential part of living together in a group home or halfway house. Residents do not constitute an interdependent group that emulates a family. Tenancy is on a weekly or longer basis as distinguished from transient housing such as a hotel or motel. A boarding house shall also be considered a "Lodging house".

BUILDING COVERAGE: (See COVERAGE)

BUILDING, DETACHED: A building surrounded by open space on the same lot having no physical attachments to another structure.

BUILDING, FRONTAGE: See FRONTAGE, BUILDING

BUILDING LINE: A line parallel to the front, sides, and rear lot lines; set so as to provide the required open spaces and setbacks on a lot. This does not refer to the property “boundary lines” which outline the entire parcel.

BUILDING, PRINCIPAL: A building in which is conducted the principal use of the lot on which it is located. Storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings. For purposes of this Ordinance, the principal building may also be referred to as the main building, the main structure, or the principal structure.

BUILDING SETBACK LINE: The allowable horizontal distance from a given point or line of reference to the nearest vertical wall or other element of a principal or accessory building, or structure, (proposed or established) as defined herein. The given point or line of reference will be the lot’s “boundary lines” following any required dedication or a special or preservation line if one is required pursuant to this Ordinance.

BUILDING / STRUCTURE: A building is any structure having a roof supported by columns, walls, arches, or other devices and intended for the shelter, housing, or enclosure of persons, animals, or chattels of any nature, and includes covered porches or bay windows and chimneys. A structure includes, but is not limited to the above referenced description and any item permanently constructed, placed or set upon (or buried underneath, i.e. gas or liquid storage tanks) any parcel of land, the placement and/or use for which requires the issuance of all applicable permits.

BUILDING / STRUCTURE, ACCESSORY: A building or structure which is clearly subordinate to the main building on the lot and is used for purposes customarily incidental to the use of the main building or lot.

BUS SHELTERS: A three (3) sided structure at a bus stop that gives people limited protection against the weather and is used to aid in the loading and unloading of passengers using public transportation systems.

CARPORT: A structure with a roof covering and two (2) or more sides open which may be used for storage of one (1) or more vehicles.

CELLAR/BASEMENT: A section of a dwelling/building being partially underground and having more than one-half (1/2) of its clear height below the average level of the adjoining ground. A cellar/basement shall not be considered in determining the permissible number of stories.

CENTER LINE: A line which determines the center points on highways/roadways dividing them into separate sections and from which property lot lines are commonly determined. The position of the center line shall be determined as follows:

- A. For streets or roads that have not been improved in accordance with engineering surveys and plans accepted by the State, County or Borough, the center line is at the midway point between fences or other markers indicating the boundaries of the highway on opposite sides thereof.

- B. For streets or roads that have been improved in accordance with engineering surveys and plans accepted by the State, County or Borough, the center line is at the center of the surfacing or pavement, or if there be none, the center of the graded roadbed.
- C. For highways that have been paved, or are planned to be paved as divided roads, with two or more defined and contiguous traffic lanes in one direction separated from two or more defined and contiguous traffic lanes in the opposite direction, by a directional separator, the center line is the center of the directional separator, as the road is paved or is planned to be paved.

CHILD DAY-CARE CENTER: Any commercial business registered by the Commonwealth of Pennsylvania, operated for profit or not for profit, in which child day care is provided at any one time to six or more children who are not relatives of the caregiver.

CLEAR SIGHT TRIANGLE: A triangular area of unobstructed vision on corner lots formed by a seventy-five (75') foot sight line along the center line of a secondary or primary road by a fifty (50') foot sight line along the center line of a local street and by a line adjoining these two sight lines at the greatest distance from their intersection.

CLINIC: An establishment operated under license by the Commonwealth of Pennsylvania providing therapeutic, preventative, corrective, healing and health-building treatment services on an outpatient basis by physicians, dentists and other practitioners. Typical uses include medical and dental offices and clinics and outpatient medical laboratories.

COMMERCIAL: Engaging in a business, enterprise, activity, or other undertaking for a profit.

COMMUNICATIONS ANTENNA: Any device used for the transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio service or any other wireless communications signals, including without limitation omni directional or whip antennas and direction or panel antennas, owned or operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate such device. This definition shall not include private residence mounted satellite dishes or television antennas or amateur radio equipment including, without limitation, ham or citizen's band radio antennas.

COMMUNICATIONS EQUIPMENT BUILDING: An unmanned building or cabinet containing communications equipment required for the operation of Communications Antennas and covering an area on the ground not greater than two hundred and fifty (250) square feet.

COMMUNICATIONS TOWER: A structure, other than a building, such as a monopole, self-supporting or guyed tower, designed and used to support Communications Antennas. (Also see ALTERNATIVE TOWER STRUCTURE)

COMPREHENSIVE PLAN: The complete plan, plus amendments, or any of its parts for the development of the Borough as adopted by the Council of the Borough of Ebensburg in accordance with Article III of the Pennsylvania Municipalities Planning Code.

CONDITIONAL USE: A "Conditional Use" is similar to a "Special Exception" and is subject to the applicant meeting certain specific standards and criteria set out in the Zoning Ordinance. The difference is that a Special Exception is heard by Ebensburg Zoning Hearing Board, while the Conditional Use hearing is heard by Ebensburg Borough Council.

CONSISTENCY: An agreement or correspondence between matters being compared which denotes a reasonable, rational, similar connection or relationship.

CONVERSION APARTMENT: The remodeling of a single-household dwelling unit into two (2) or more separate living units each having a minimum of not less than eight-hundred (800) square feet of habitable area, one bathroom and three habitable rooms (at least one of which shall be a bedroom) separate and private sanitary facilities, cooking and dining facilities for each dwelling unit. All units must meet the required Fire, Safety & Housing Codes and applicable zoning requirements for the district wherein contained. Basement and/or cellar dwellings shall not be defined as conversion apartments.

COUNTY: A county of the second class through eight class. The largest administrative division of most states in the United States of America.

COUNTY COMPREHENSIVE PLAN: A land use and growth management plan prepared by the county planning commission which establishes broad goals and criteria for municipalities to use in preparation of their comprehensive plans and land use regulations.

COUNTY PLANNING COMMISSION: The Cambria County, Pennsylvania, Planning Commission.

COVERAGE: The total square feet of a lot's area that is covered by the principal building, and all accessory buildings (exclusive of uncovered porches, terraces, and steps) taken on a horizontal plane at the mean grade level.

CULTURAL FACILITIES: A public or nonprofit institution within the Borough, which engages in the cultural, intellectual, scientific, environmental, educational or artistic enrichment of the people of the Borough. "Cultural facilities" includes, aquaria, botanical societies, historical societies, performing arts associations or societies, scientific societies, wildlife conservation organizations and zoological societies. "Cultural facilities" does not mean any school or any institution primarily engaged in religious or sectarian activities.

DECISION: Final adjudication of any board or other body granted jurisdiction under any land use Ordinance or this Act to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealed to the Court of Common Pleas of Cambria County, Pennsylvania.

DETACHED: (See BUILDING, DETACHED)

DISABILITY: A physical or mental impairment which substantially limits one or more of a person's major life activities, impairs their ability to live independently, or a record of having such impairment, or being regarded as having such impairment.

DRIVEWAY: Private road, lane, path, or other means of access where travel occurs from a public road (whether by easement or ownership) not considered to be part of the public road for the purpose gaining access through any part of a private parcel of land or which connects or will connect with any public roadway.

DWELLING UNIT: A dwelling unit shall mean a room or group of rooms located within a building or structure and forming a single habitable unit with facilities which are used or intended

to be designed and used for living, sleeping, cooking and eating, and sanitary purposes, for a single household. The dwelling unit shall be at least two (2) stories high.

EATERIES:

Fast Food: An establishment where the principal business is the sale of food and non-alcoholic beverage in a ready-to-consume state and where the design or principal method of operation is that of a quick service restaurant where orders are generally not taken at the customers' tables, where food is generally wrapped in disposable wrapping or containers, and where food and beverage may be served directly to the customer in an automobile.

Sit-Down: An establishment including restaurants with bars - means an establishment where the principal business is the sale of food in a ready to consume state, where there is no service to a customer in an automobile and where the design or principal methods of operation consist of one or more of the following:

- A. A sit-down restaurant where customers are normally provided with an individual menu, are generally served food in non-disposable containers by a restaurant employee at the same table or counter at which the food and beverage items are consumed; or
- B. A cafeteria or cafeteria type operation where food and beverage generally are served in non-disposable containers and are consumed within the restaurant; but not including a Private or Civic Club as defined herein.

EFFECTIVE DATE: The date on which this Ordinance is duly adopted by the Borough or as specified in Ordinance adopting same.

ENCROACHMENT: Any structure or activity which in any manner changes, expands or diminishes the course, current or cross section of any watercourse, floodway or body of water; and/or a building or structure, or any portion of the same, that extends beyond the boundaries of one owner and illegally intrudes on the land of another abutting or adjoining property, street, alley or right-of-way.

ENTERTAINMENT: Any act or performance such as a play, skit, reading, revue, pantomime, scene, song, dance, musical rendition or striptease, whether performed by employees, agents, contractors or customers. The term "entertainment" shall also mean bartenders, waiters, waitresses or other employees exposing "specified anatomical areas" or engaging in "specified sexual activities" in the presence of customers.

ERECTED: Includes built, constructed, reconstructed, moved upon, or any physical operations on the land required for the building. Excavation, fill, drainage, and the like shall be considered part of this erection.

ESSENTIAL SERVICES: Essential services means the erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electrical, steam, fuel or water transmission or distribution system, collection, communication, supply or disposal system, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment in connection herewith, but not including buildings which are necessary for the furnishing of adequate service by such facilities or governmental departments for the general health, safety, or welfare. Radio broadcasting and receiving towers and equipment structures used in cellular telephone systems are specifically excluded from the definition of essential services.

FAMILY: An individual, or two (2) or more persons related by blood, marriage or adoption, living together in a dwelling unit, or a group of not more than five (5) individuals not necessarily related by blood, marriage, adoption, or guardianship, living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship. A group of not more than three (3) unrelated disabled people living together as a single housekeeping unit in a dwelling unit and sharing common facilities as considered reasonably appropriate for a family related by blood, marriage, adoption or guardianship. If appropriate, one staff person may reside on the premises and will not be included in the total number of occupants. Any additional staff shall be included in the total number of occupants.

FENCE: An artificially constructed barrier arranged as a line of demarcation between lots, or to enclose a lot, or any portion thereof, or to define areas on a lot and which is made from rails, timbers, chain link, boards, hedges, wire mesh or vinyl, or any other similar materials. (See also SCREENING and WALLS)

FLOOD BOUNDARY AND FLOODWAY MAPS: Maps prepared by the Federal Emergency Management Agency for the Borough of Ebensburg, indicating the floodway, 100-year flood, and the 500-year flood for purposes of regulating land use as prescribed by the National Flood Insurance Program.

FLOODPLAIN: Any land area susceptible to being inundated by water from any source during the base flood, as shown on the most current flood plain maps prepared by the Federal Insurance Administration and approved by the Federal Emergency Management Agency (FEMA) for the purpose of determining the official Federal Designated Flood Plain, Floodway and Floodway Fringe. These maps are based on the most current Flood Insurance Study prepared by the Federal Emergency Management Agency; the Study being the definitive source of flood plain information, particularly in regards to base flood elevations and floodway widths as reflected in the Floodplain Regulations of the Borough of Ebensburg and indicated on the Flood Boundary and Floodway Maps.

FLOOR AREA, GROSS: The sum of the gross horizontal areas of the several floors of a building and any accessory buildings on the same lot, excluding cellar and basement floor area not devoted to residential use, but including the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

FORESTRY ACTIVITIES: The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes, which does not involve any land development.

FRONTAGE, LOT: The lot frontage (front lot line) of all lots shall be determined according to the street/mailling address issued by the United States Post Office. A minimum lot frontage requirement specifies the shortest measurement permitted. Note: The entry point of any building placed on any lot may be changed per the desires of the property owner, however the actual lot frontage (front lot line) used in any measurements or calculations shall be determined by the street/mailling address.

FRONTAGE, STREET: The sides of a lot abutting one (1) or more streets. An interior lot, generally, has one (1) street frontage. Through lots and corner lots, physically abutting two (2) or more streets have two (2) or more street frontages.

FUNERAL HOME, MORTUARY: An establishment engaged in undertaking services such as preparing the human deceased for burial, and arranging and managing funerals, including mortuaries and crematoria.

GARAGE: A deck, building, parking structure, or part thereof used or intended to be used for the parking and storage of vehicles.

GOVERNMENTAL AGENCY: Any department, commission, independent agency, or instrumentality of the United States, the Commonwealth of Pennsylvania, Cambria County, the Borough of Ebensburg, or any other relevant governmental authority.

GOVERNMENTAL HOME OFFICES: Offices contained within the principal use (not considered professional offices or home occupations) for the purpose of conducting business on behalf of Ebensburg Borough. (i.e. Tax Collector, Zoning Officer or Mayor)

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

HARDSHIP: For purposes of lot regulations or restrictions in this Ordinance, a hardship refers to “*the lay of the land*” including unique physical circumstances or conditions of a lot, such as irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and not the result of the action of the applicant, whereby a literal enforcement of the regulations would not permit a property owner to use the property in a requested manner. A hardship does refer to any personal issues and/or financial issues that a property owner may have. (Also see VARIANCE)

HEALTH SERVICES: A state or federally licensed institution providing primary health care services and medical or surgical care to persons who are primarily inpatients that are suffering from illness, disease injury, deformity, or other abnormal physical or mental conditions. Facilities may contain, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medical offices, and staff residences.

HEIGHT, COMMUNICATIONS TOWER(S): The vertical distance measured from the ground level to the highest point on a Communications Tower, including antennas mounted on the tower.

HIGH-RISE APARTMENT: Any apartment dwelling with a height of five (5) or more stories.

HOME OCCUPATION: A business conducted within a residence.

HOSPICE: A temporary living arrangement for more than four (4) persons, not related by blood or marriage, with a terminal disease that requires full-time support, therapy, and treatment. A Hospice offers, for a fee, terminal care emphasizing quality of life, limiting invasive procedures, and palliative measures. It focuses on alleviating physical pain and symptoms while providing psychosocial, practical, spiritual, and bereavement support. A hospice is an alternative to a hospital or nursing home. Residency is measured in weeks, months, or no more than one (1) or two (2) years.

HOUSEHOLD: Either a family living together, or a single person living alone, in a single dwelling unit with common access to and common use of all areas within the individual dwelling. A household shall not include persons living together in a Group Home facility, Halfway House, Personal Care, Boarding Home or transitional-type dwelling, as defined herein, or any other supervised group living arrangement for persons not protected by the Fair Housing Act or for any persons who constitute a direct threat to others or their physical property.

HOUSES OF WORSHIP: (1) A church, synagogue, temple or other facility that is used for prayer or worship by persons of similar beliefs. (2) A special purpose building that is architecturally designed and particularly adapted for the primary use of conducting, on a regular basis, formal religious services by a religious congregation.

JUNK: Any worn, cast off, or discarded article or material which is ready for destruction or which has been collected or stored for sale, resale, salvage, or conversion to some other use. (e.g. abandoned vehicles, scrap metals and their alloys, bones, used cloth, rubber, rope, tinfoil, bottles, old machinery, tools, appliances, fixtures, utensils, paper, lumber, boxes or crates, pipe or pipe fittings, tires, and other manufactured goods that are not currently awaiting imminent repair, and that are so worn, deteriorated, rusted or obsolete as to make them unusable in their existing condition, without being altered, disassembled, unfastened, changed or reconditioned to serve for its original purpose as readily as when new) Materials which are lawfully stock piled for recycling purposes by a valid recycling center are not included in this definition. Any article or material which can be used for its original purpose as readily as when new, without being altered, disassembled, unfastened, changed, or reconditioned shall not be considered junk. The term "junk" shall include junk vehicles.

The term "junk" *shall not include* a "classic motor vehicle" nor an "antique motor vehicle" which are defined as follows:

- A. A "classic motor vehicle" is a self-propelled vehicle, but not a reproduction thereof, manufactured more than ten years prior to the current year and, because of discontinued production and limited availability, determined by the Department of Transportation of the Commonwealth of Pennsylvania to be a model or make of significant value to a condition which is substantially in conformity with manufacturer specifications and appearance, and which bears a current, valid "classic motor vehicle" registration plate.
- B. An "antique motor vehicle" is a motor vehicle, but not a reproduction thereof, manufactured more than 25 years prior to the current year which has been maintained in or restored to a condition which is substantially in conformance with manufacturer specifications, and which bears a current, valid antique motor vehicle registration plate.

JUNK VEHICLE: Any vehicles, including Classic and Antique Motor Vehicles that do not bear/have all of the following current and valid instruments/documents;

- 1) License/Registration plate;
- 2) Certificate of Inspection; and
- 3) Certificate of Title.

(Exempt are pedal-cycles as defined in the Motor Vehicle Code of the Commonwealth of Pennsylvania)

JUNKYARD: The use of two hundred (200) square feet or more of the area of any lot, whether inside or outside a building for storage, keeping, or abandonment of junk including scrap metals, or for the dismantling, demolition, or abandonment of automobiles or other vehicles, machinery or parts thereof and any worn, cast-off or discarded article or material which is ready for destruction, or which has been collected or stored for sale, resale, salvage, or conversion to some other use.

LAND: Ground, soil, or earth, including structures on, above, or below the surface.

LANDOWNER: Any person who, alone or jointly or severally with others, shall have legal or equitable title to any premises, with or without accompanying actual possession thereof, or shall have charge, care or control as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee, receiver, or guardian of the estate, or as mortgagee in possession regardless of how such possession was obtained. All persons, partnerships, corporations, and other legal entities that have an ownership interest (including purchasers and sellers under a real estate contract) in the subject property .

LANDSCAPE: 1) An expanse of natural scenery; 2) lawns, trees, plants, rocks, wood chips, and decorative features such as sculptures, patterned walks, decorative fountains, and similar water features.

LIBRARY, PUBLIC: A public facility housing a collection of books, magazines or other material which is loaned to the general public without charge. (excludes adult bookstores or similar publication facilities)

LOADING BERTH: (See OFF-STREET LOADING BERTH)

LODGING HOUSE: (See BOARDING HOUSE)

LOT: A parcel of land occupied by, or which may be occupied by, buildings or structures, including the yards and other open spaces, as required by this Ordinance, of the land shown as a separate lot or parcel on the records of Cambria County, Pennsylvania.

LOT AREA: The total area circumscribed by the legal boundaries of a lot.

LOT, CONFORMING: An occupied or unoccupied lot whose area and dimensions meet the requirements of the zoning district in which it is located.

LOT, CORNER: A lot at the junction of, and abutting on two (2) 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 one hundred thirty-five (135) degrees.

LOT COVERAGE: (See COVERAGE)

LOT, DEPTH: The distance between the front lot line and rear lot lines, measured perpendicularly to the right-at-way line at the median between the two (2) side lot lines.

LOT FRONTAGE: (See FRONTAGE, LOT)

LOT, IMPROVED: A lot on which a building either can be constructed or occupied and which meets the requirements of this Ordinance.

LOT, INTERIOR: A lot other than a corner lot. A through lot is also considered interior lot, but it has access to two (2) streets at the front and rear lot lines.

LOT LINE: A line of record bounding a lot that divides it from an adjacent or abutting property, street, right-at-way, or public space. There are five (5) kinds of lot lines, as specified below.

- A. **LOT LINE, FRONT:** The location of the front lot line for ALL lots shall be determined by the street/mailling address issued by the United States Post Office for any parcel of land.
- B. **LOT LINE, REAR:** A lot line, not intersecting a front lot line, which is most closely parallel to the front lot line. In the case of triangular or otherwise irregularly shaped lots, the rear lot line is a line that is a minimum of ten (10) feet in length that is entirely within the lot, parallel to the front lot line, and at a maximum distance from the front lot line.
- C. **LOT LINE, SIDE(S):** On “interior lots” these are lines that are not the front and rear lot lines.
- D. **LOT LINE, “STREET” SIDE:** On “corner lots” this is a lot line that abuts the right-of-way of a street, but is not the front lot line.
- E. **LOT LINE, “NON-STREET” SIDE:** On “corner lots” this is a lot line that is not a front, rear, or “street” side lot line.

LOT, THROUGH: Interior lots having access to two (2) streets, commonly situated at the front and rear lot lines of the parcel, and having two (2) sides abutting/adjoining another parcel of land or rights-of-way, easements, utilities, parks or any other natural features. A corner lot is not a through lot.

LOT OF RECORD: A lot that exists as shown or described on a plat, subdivision or deed in the records of the local Recorder of Deeds.

LOT WIDTH: The distance between the side lot lines.

LOW-RISE APARTMENT: Any apartment dwelling with a height of not more than four (4) stories.

MANUFACTURING: The making of product for wholesale or retail distribution or for internal use from raw materials by hand, or by machinery, or to produce according to an organized plan and with division of labor.

MANUFACTURED HOME: A manufactured home is a single-family house constructed entirely in a controlled factory environment, built to the federal Manufactured Home Construction and Safety Standards and/or the 1976 HUD Code.

MOBILE HOME: A transportable, single-household dwelling unit not constructed in accordance with the standards set forth in the Uniform Building Code applicable to on-site built homes, and containing complete electrical, plumbing and sanitary facilities intended for permanent occupancy, and composed of one or more components, each of which are substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis. A Mobile

Home is typically up to 16 feet wide and 60 feet long, may be separated for repeated towing, and is constructed so that it may be used with or without a permanent foundation. Also considered a Trailer Home.

MODULAR HOME: A Modular Home is a single-family house constructed of pre-made parts and unit modules. Modules transported to the site are lifted onto a foundation and permanently anchored. Many modular homes are of multi-level design, and all are constructed in accordance with the Uniform Construction Code.

MUSEUM, PUBLIC: A public institution devoted to the procurement, care, study, and display of objects of lasting interest or value; a place where such objects are exhibited.

NEIGHBORHOOD: An area of a community with characteristics that distinguish it from other areas of that community, and which may include distinct ethnic or economic characteristics, housing types, schools, or boundaries defined by physical barriers (e.g., major highways, railroads, and natural features such as rivers).

NON-CONFORMING BUILDING: A building or structure, which does not conform to all the height, area, and yard regulations of the district in which it is located, where such structure was lawfully in existence prior to the enactment of this Ordinance or any Amendments hereto, or prior to the application of this Ordinance or any Amendments to its location by reason of Annexation or Zoning Map changes.

NON-CONFORMING LOT: A lot which does not conform to lot width, depth and/or area regulations, where such use was lawfully in existence prior to the enactment of this Ordinance or any Amendments hereto, or prior to the application of this Ordinance or any Amendments to its location by reason of Annexation or Zoning Map changes.

NON-CONFORMING USE: A use, which does not conform to the regulations of a district in which it is located where such use was lawfully in existence prior to the enactment of this Ordinance or any Amendments hereto, or prior to the application of this Ordinance or any amendments to its location by reason of annexation or zoning map changes. Also see Article III, "Non-conforming Buildings and Land Uses".

OCCUPANCY or OCCUPIED: Either the residing of an individual or individuals overnight, or longer, in a dwelling unit; or the use by individuals during business hours in any private, public, commercial or industrial building; or the storage or use of equipment, merchandise or machinery in such dwellings or structures.

OFF-STREET PARKING SPACE: A temporary storage area for a motor vehicle that is directly accessible to an access aisle, and which is not located on a dedicated street right of way; having an area of not less than one hundred and sixty two (162) square feet, and having a minimum rectangular dimension of nine (9) feet by eighteen (18) feet which is used exclusively for parking, and exclusive of any access, turning or exit lanes or area, for one (1) vehicle

OPEN SPACE: That unoccupied space open to the sky of which eighty (80%) percent must be vegetative material.

OUTDOOR STORAGE: The keeping of any goods, material, merchandise, or vehicles in the same enclosed or unenclosed area for more than twenty-four hours.

OVERLAY ZONE: A zoning district that encompasses one or more underlying zones, and that imposes additional requirements above those required by the underlying zones.

PARK: A park, playground or other facility or open space area providing active or passive recreational opportunities for the general public that may or may not contain any pavilions, play fields or ball fields.

PARKING AREA: Any public or private area in, under or outside of a building or structure, designed and used for parking motor vehicles. This term includes parking lots, garages, private driveways, and legally- designated areas of public streets.

PARKING LOT: Any place, lot, parcel, or yard used in whole or in part for storing or parking six (6) or more motor vehicles where a storage or parking fee may be charged, or where the lot is operated in connection with or for the exclusive use of, the customers of a retail store, theater, or any commercial, industrial, or institutional use.

PARKING SPACE: A space for the parking of one motor vehicle within a public or private parking area having an area of not less than one hundred and sixty two (162) square feet, and having a minimum rectangular dimension of nine (9) feet by eighteen (18) feet which is used exclusively for parking, and exclusive of any access, turning or exit lanes or area, for one (1) vehicle.

PATIO/DECK: A ground level structure with at least three (3) sides open and used for residential purposes.

PERMIT: Written governmental permission issued by an authorized official, empowering the holder thereof to perform some act not forbidden by law, but not permitted without such an authorization.

PERMITTED ACCESSORY USE: A land use or structure that:

- A. is allowed either by Right, Special Exception, Conditional Use or Variance in a zoning district,
- B. is subject to the restrictions applicable to the zoning district in which it is located, and
- C. is customarily incidental and subordinate to the principal use of the lot on which it is located.

PERMITTED PRINCIPAL USE: A land use or structure that:

- A. is allowed either by Right, Special Exception, Conditional Use or Variance in a zoning district,
- B. is subject to the restrictions applicable to the zoning district in which it is located, and
- C. is the principal use of the lot on which it is located.

PERMITTED USE: A land use that is allowed in a zoning district and subject to the regulations and/or restrictions applicable to the zoning district in which it is located.

PERSON: Any individual, legal representative, sole proprietorship, association, company, corporation, firm, organization, or partnership, singular or plural, of any kind.

PLANNING COMMISSION, THE: The Planning Commission consists of Ebensburg Borough residents appointed by the Ebensburg Borough Council for purposes, including but not limited to, preparing, presenting, and making recommendations to Council concerning the adoption, or any amendments thereto, of any zoning ordinance or building or housing code; proposing recommendations to governmental, civic, and private agencies and individuals as to the effectiveness of any proposals of such agencies or individuals; hold public meetings and hearings; present testimony to any Board; enter upon any land with the permission of the owner to make any examination and/or land surveys thereof; performing studies and/or public surveys; and promoting public interest in the comprehensive plan and planning in general.

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

PLAT: A map, plan, or layout showing the subdivision of land and indicating the location and boundaries of individual properties.

PLAYGROUND: An active recreational area with a variety of facilities which generally includes equipment for younger children, court games, and field games. (Also see PARK)

PREMISES: (See PROPERTY)

PRINCIPAL BUILDING: (See BUILDING, PRINCIPAL)

PRINCIPAL USE: The primary or predominant uses of any lot or parcel.

PRIVATE & CIVIC CLUBS: Organizations catering exclusively to members and their guests; or premises and buildings for recreational or athletic purposes which are not conducted primarily for gain, providing that any vending stands, merchandising or commercial activities are conducted only as required generally for the membership of such club. Such clubs would include the American Legion, Elks Club, Rod and Gun Clubs or the VFW, and operating under the non-profit laws of the State of Pennsylvania.

PRIVATE ROAD: A legally established right-of-way, other than a street, which provides the primary vehicular access to a lot or lots, and is privately maintained.

PROFESSIONAL: An individual or association that provides the salable commodity offered to the client including the following types of practices: Accountant, Administrative or clerical work, Architect, Physician, Dentist, Chiropractor, Lawyer, Engineer, Notary public or Real estate agent and who are licensed under the laws of the Commonwealth of Pennsylvania. (excluding Adult Sexual Oriented services)

PROFESSIONAL OFFICE AND SERVICES: A place where a particular kind of business is transacted or services of the practitioner are the salable commodity offered to the client for the following types of practices: Accounting, Architect, Auditing, Bookkeeping and Tax Return services, Advertising agencies, Attorneys and Legal services, Banks and similar financial institutions, Chiropractor, Employment agencies, Engineering, Architectural, and Surveying services, Medical, Dental, Vision and Hearing clinics and offices on an out-patient basis, Notary public, Real Estate sales offices and other Brokerage sales offices, Travel Agencies and other

commonly accepted professional services that are licensed under the laws of the Commonwealth of Pennsylvania.

PROHIBITED USE: A use that is not permitted in any zoning district.

PROPERTY: A lot, parcel, or tract of land, as well as all buildings and structures located thereon. (Same as PREMISES)

PROPERTY LINE: (See LOT LINE)

PUBLIC UTILITY “ELECTRIC” TRANSMISSION TOWER: A structure, owned and operated by a public utility electric company regulated by the Pennsylvania Public Utility Commission, designed and used to support overhead electricity transmission lines.

RAILROAD MANUFACTURING, REPAIR/MAINTENANCE FACILITY OR SWITCHING YARD: An industrial area dedicated to the repairing and maintenance of railroad equipment or the crossroads of rails lines where the switching of rail cars takes place.

RESEARCH AND DEVELOPMENT LABORATORIES: A facility engaged in scientific analysis, testing of hypotheses, product testing, consumer preference testing, pharmaceuticals, development of methodologies, and similar activities. Also, an establishment which carries on investigations in the natural, physical, or social sciences, which may include engineering and product development.

RETAIL SALES AND SERVICES: Businesses characterized by the physical transfer of tangible goods to customers on the premises and design showcases or any other space intended and primarily suitable for the display of goods for sale and servicing of the same including: Appliance sales and service, Antique shops, Bakeries, Barber and beauty shops, Camera and photography sales and service, Cards, gifts and stationary stores, Clothing stores, Consignment & thrift shops, Computer sales and service, Convenience stores, Drugstores, Florists, plant and flower sales, Furniture re-upholstery and repair, General merchandise, variety, and department stores, Grocery and food stores and markets, Hardware, glass, paint, floor covering, wallpaper, and fabric stores, Hobby, arts, crafts & toy shops, Home furnishings stores, Jewelry sales and service, Janitorial cleaning and maintenance services, Liquor stores, Limousine and cab services, Locksmiths, Medical equipment sales and rental, Radio, television, consumer electronics and music stores, Sporting goods, Pet supply stores, Physical fitness facilities, Shoe sales and repair shops, Tanning salons and other commonly accepted retail sales and services (excluding Adult sexual oriented materials sales and services). The following may be permitted with inside only storage: General equipment rental and leasing, Home appliance sales and service, Lumber and building supply, Plumbing and electrical supply, Small engine and lawnmower repair.

RIGHT-OF-WAY: 1) A portion of land that is acquired by reservation, dedication, forced dedication, prescription, or condemnation, and is intended to be occupied by a road, crosswalk, railroad, electric transmission line, oil pipeline, gas pipeline, water line, sanitary sewer line, storm sewer line, and/or other similar use; 2) generally, the legal right of one to pass over or otherwise legally use the property of another.

ROOF SIGN: Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

ROOF SIGN, INTEGRAL: Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

SATELLITE DISH ANTENNA: A device that is composed of a reflective surface that is solid, open mesh, or bar-configured, and is in the shape of a shallow dish, cone, or horn. Satellite dish antennas are used to transmit or receive radio or similar type signals to or from terrestrially based towers and/or earth orbiting satellites. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVRO's (Television Reception Only), and microwave antennas.

SCHOOL: Any building or part thereof, which is designed, constructed, or used for education or instruction in any branch of knowledge including Colleges or Universities supported wholly or in part by public funds and other Colleges or Universities giving general academic instruction, as prescribed by the Pennsylvania State Board of Education.

SCHOOL, PRIVATE: A school that meets Pennsylvania State requirements for elementary or secondary education and that does not secure the major part of its funding from any governmental agency.

SCHOOL, PUBLIC: Any building, structure, facility, or complex used by the general public for education that is licensed by the state and that meets the state requirements for education, whether constructed by the Commonwealth of Pennsylvania, Cambria County, the Borough of Ebensburg, a local government, a governmental instrumentality, a private individual, a corporation, a partnership, or an association and which secures a major part of its funding from governmental agencies.

SCREENING: A vegetative material or opaque fence or fencing of sufficient height and density to filter adequately from the view, in abutting or adjacent districts, the structures and uses on the premises upon which the screen planting or fence is located. (See also FENCE and WALLS)

SETBACK: The distance that must be maintained between all parts (except for walks and steps) of all buildings (except permitted accessory uses as stipulated) and a specified lot line or publicly held right-of-way. In this Ordinance, this distance is sometimes expressed as a range between:

A *MINIMUM SETBACK* - the shortest distance that may exist between a relevant building and a specified lot line or publicly held right-of-way;

and

A *MAXIMUM SETBACK* - the longest distance that may exist between a relevant building and a specified lot line or publicly held right-of-way.

More often, this distance is expressed simply as a minimum setback (i.e., no maximum setback is given). There are five kinds of setbacks, which differ only in that they are measured from different specified lot lines or publicly held right-of-ways.

A. **FRONT SETBACK:** The distance that must be maintained between all parts (except for walks or steps) of all buildings (except permitted accessory uses as stipulated) and the front lot

line or publicly held right-of-way. The area between the front lot line and the line formed by the main front of the principal building(s) and running the entire width of the lot is the FRONT YARD.

B. REAR SETBACK: The distance that must be maintained between all parts (except for walks or steps) of all buildings (except permitted accessory uses as stipulated) and the rear lot line or publicly held right-of-way. The area between the rear lot line and the line formed by the rear of the principal building and running the entire width of the lot is the REAR YARD.

C. SIDE SETBACK: For “interior lots”: the distance that must be maintained between all parts (except for walks or steps) of all buildings (except permitted accessory uses as stipulated) and the side lot line on the side of the lot to which those parts are closest. The area between a side lot line and the line formed by the side of the principal building that is closest to that side lot lines are the SIDE YARDS.

D. STREET-SIDE SETBACK: For “corner lots”: the distance that must be maintained between all parts (except for walks or steps) of all buildings (except permitted accessory uses as stipulated) and the street-side lot line or publicly held right-of-way. The area between the street-side lot line and the line formed by the side of the principal building that is closest to the street-side lot line is the STREET-SIDE YARD. In this definition the “street” side referred to is not the “front street” lot line.

E. NON STREET-SIDE SETBACK: For “corner lots”: The distance that must be maintained between all parts (except for walks or steps) of all buildings (except permitted accessory uses as stipulated) and the non street-side lot line. The area between the non street-side lot line and the line formed by the side of the principal building that is closest to the non street-side lot line is the NON STREET-SIDE YARD.

If the sidewalks directly in front of any lot (or situate along any additional lot “street” sides) are not legally included as a part of that lot, then six (6) feet shall be subtracted from that lot's minimum and maximum front setback requirements. If the sidewalks directly along the side street side of a corner lot are not legally included as a part of that lot, then six feet shall be subtracted from that lot's minimum and maximum side street setback requirements. These adjustments are to compensate for the setbacks that are already provided for the involved lot by the sidewalk property, and may not be interpreted as allowing the construction of a structure beyond the lot's legal boundaries.

SIGN: Any structure or device for visual communication that is used for the purpose of bringing the subject matter on it to the attention of the public, including, but not limited to, signs, symbols and/or wording painted or affixed in any manner on any structures.

SINGLE-HOUSEHOLD DWELLING: A building used by one (1) family having only one (1) dwelling unit and having a front, rear, and two (2) side setbacks, constructed in accordance with the Uniform Construction Code (excludes mobile homes).

SINGLE-HOUSEHOLD, SEMI-DETACHED DWELLING: A building used by one (1) family having one (1) side yard, and one (1) common wall with another building which may, or may not be, another dwelling unit.

SPECIAL EXCEPTION USE: A “Special Exception” is a specific use listed in the Ordinance as a “Special Exception”, (said use is not permitted by right) which may be granted after a hearing by

the Zoning Hearing Board and pursuant to the express standards and criteria listed to enable such use only in the District in which it is specifically listed. The Board may attach such reasonable conditions and safeguards in addition to those listed in the Ordinance as it may deem necessary.

STORY: That portion of a building included above the foundation wall and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the next ceiling above it.

STREET: A street is a public or private way which affords vehicular access to abutting or adjacent properties but does not include driveways, parking lots, or walkways. Street includes the entire right-of-way. A street may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive, place, way, alley or other appropriate name. A street may also be identified according to a type of use as specified in the Subdivision and Land Development Ordinance for the Borough of Ebensburg.

STRUCTURE: (See BUILDING/STRUCTURE)

STRUCTURE, MAIN: (Same as BUILDING, PRINCIPLE)

STRUCTURE, PRINCIPLE: (Same as BUILDING, PRINCIPLE)

SUBDIVISION / REDIVISION:

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

B. Any development of a parcel of land (for example, as a shopping center or a multiple dwelling project), which involves installation of streets and/or alleys, even though the streets and alleys may not be dedicated to public use and the parcel may not be divided immediately for purposes of conveyance, transfer or sale.

C. Any development of a single parcel of land involving a group of two (2) or more principal and/or accessory buildings.

SUSPENDED BUILDING SIGN: A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

SWIMMING POOL: Any structure, basin, chamber, or tank containing an artificial body of water for swimming, diving, or recreational bathing and having a depth of two (2') feet or more at any point, either above or in the ground.

TEMPORARY USE: An authorized use, of limited duration, that is to be discontinued after the expiration of a specified time period.

TOWNHOUSE - ROWHOUSE DWELLING: A building comprised of three (3) to (6) individual dwelling units, separated by common fire resistant walls; each having separate cooking, sleeping and sanitary facilities and separate addresses, connections for utilities, etc; and private means of

access to and from the outside. No dwelling unit is located over the top, or attached to the back of another unit. Townhouses and Row Houses share a similar design are not considered Condominiums as the only "common portions" of the property are the side walls that separate the units. The front, back (where applicable, side) setbacks are normally owned by the individual unit owners.

TRAILER HOME: Same as Mobile Home

TRAILER, TRAVEL, AND RELATED CAMPING AND RECREATION EQUIPMENT: "Travel Trailer, Camping Trailer and Recreational Equipment" shall include travel trailer, pickup coach, motorized home, boat and boat trailers, as defined below:

- A. A travel-trailer is a vehicular, portable structure mounted on a chassis and designated for temporary (short-term) occupancy for travel, recreation and vacation purposes; permanently identified as a "travel trailer" by the manufacturer of the trailer, and when factory equipped for the road, having a body width not exceeding eight (8) feet and being any length, provided its gross weight does not exceed four thousand, five hundred (4,500) pounds or any weight provided its body length does not exceed twenty-nine (29) feet.
- B. A pickup coach is a structure designed primarily to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation use.
- C. A motorized home is a portable dwelling designed and constructed as an integral part of a self-propelled vehicle which is usually used for camping or vacation purposes.
- D. A boat is a vessel not exceeding twenty (20) feet in length and designed to travel on water.
- E. A boat trailer is a trailer designed to haul a boat as defined above.

TRANSFER OF OWNERSHIP or CONTROL: 1) The sale, lease or sublease of any business; 2) The transfer of securities which constitute a controlling interest in any business whether by sale, exchange or similar means; or 3) The establishment of a trust, gift or other similar legal device which transfers ownership or control of any business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

UPPER FLOOR RESIDENTIAL DWELLINGS: Dwelling units that are situate on the floors above a business or commercial establishment.

USE: The specific purpose for which land or a building is designed, 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 "non-conforming use".

VARIANCE: A Variance, which may be granted by the Zoning Hearing Board, is a modification of the strict terms of these regulations where such modification will not be contrary to the public interest and where owing to physical conditions peculiar to the property, and not the result of the action of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship. The application procedures, requirements, and standards that must be met to

obtain consideration of a Variance request are contained in Section 207, "Variances". (See also **HARDSHIP**)

WALL: A wall is defined as follows:

- 1) As an integral part of a principal or accessory building means: An upright structure of masonry, wood, plaster, or other building material serving to enclose, divide, or protect an area, especially a vertical construction forming an inner partition or exterior siding of a building.
- 2) As an exterior, free-standing or semi-free standing barrier (if attached to another structure) not an integral part of a principal or accessory building means: An upright barrier constructed principally of materials including, but not limited to, brick, concrete or cinder block, intended to prevent intrusion, mark a boundary or enclose a parcel of land or structure, where 100% of the vertical surface is solid/closed, except for approved gates or other access ways, shall be considered a "wall."
- 3) The term "wall" does not include engineering retaining walls that hold back more than one (1) foot of dirt on one side. Such walls must still meet all the applicable placement and height requirements in all districts. (See also **FENCE** and **SCREENING**)

WHOLESALE SALES: An establishment whose purpose is the sale of commodities in quantity usually for resale.

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

YARD: Open space that surrounds any buildings or structures on a lot and which exists over the entire portion of the lot not covered by any building or structure; ending at the boundary lines of the entire lot. Setbacks and building lines may be subject to building setback requirements as required in this Ordinance.

YARD, FRONT: The area between the front "boundary line" and the line formed by the front foundation of the principal building and running the entire width of the lot.

YARD, REAR: The area between the rear "boundary line" and the line formed by the rear foundation of the principal building and running the entire width of the lot.

YARDS, SIDE: The side yards on lots are determined as follows Follow down the full length of the sides of the principal structure, from it's front foundation "the front yard line" to it's back foundation "the rear yard line", then extend outwards from each side of the said principal building to the property's side boundary/lot lines. Those two (2) areas, one on either side of the principal building, form the two (2) side yards.

ZONING - The delineation of districts within a municipality or county, and the establishment of regulations for each of these districts. These regulations may govern the use of land, lot sizes, the placement, spacing, size, and character of buildings, and more.

ZONING DISTRICT: A specifically designated area or district in a municipality within which uniform regulations and requirements govern the use, placement, spacing, and size of land and buildings.

ZONING HEARING BOARD: A multiple member board, appointed by the Ebensburg Borough Council that hears appeals and challenges under Section 909.1 (a) of the Pennsylvania Municipalities Planning Code. See Section 206, "The Zoning Hearing Board".

ZONING MAP: See Section 403, "Zoning Map".

ZONING OFFICER: The administrative officer designated to administer the Zoning Ordinance and issue or deny Zoning Permits. See Section 205, "The Zoning Officer".

ZONING PERMIT: The permit that is issued by the Zoning Officer, upon determination by the Zoning Officer that all information contained in the Zoning Permit Application is in compliance with the regulations contained within this Ordinance.

ZONING PERMIT APPLICATION: The Application that must be submitted to the Zoning Officer in a complete state in order to apply for a Zoning Permit as required in this Ordinance.

(Ord. 574. 6/28/2010; as amended by Ord. 617, 01/26/2015)

APPENDICES

Appendix 1

A Reader's Guide to the Organization and Applicability of this Ordinance

This Ordinance regulates all land uses, lots, and structures within Ebensburg Borough. Every regulated land use, lot or structure must either conform to the rules of this Ordinance or be a non-conforming use, non-conforming lot, or non-conforming structure. A nonconformity is defined as a use, lot or structure that: (1) was legally established before the effective date of this Ordinance's enactment (See Article I, Section 110, "Effective Date"), and (2) does not conform to the substantive requirements of this Ordinance. Because property owners could not have known what the regulations of this Ordinance were going to be in advance, they have a legal and ethical right to continue the previously legal use of their property as they had prior to enactment of this Ordinance. However, all nonconformities, except non-conforming signs, are subject to the regulations of Article III, "Non-conforming Buildings and Land Uses". Special regulations for non-conforming signs are provided in Article VII, "Signs". All regulated land uses, lots and structures that are neither in conformance with the controls of this Ordinance or are nonconformities do not meet the requirements of the Ordinance – and subject to the enforcement procedures and penalties specified in Article II, Section 206, "Enforcement".

Zoning Ordinances are always complex due to the complex nature of modern communities. However, this Ordinance is organized to be simple and to minimize the amount of reading required determining how a property or project is restricted.

The first three (3) Articles of this Ordinance contain specifications that affect Ebensburg Borough landowners on a daily basis, and apply to all properties within the Borough. Article I, "General Provisions" titles and enacts the Ordinance, explains what the general purposes of this Ordinance are and what its basic rules are.

Article II, "Administration", explains, among other things, 1) when Zoning Permits are needed, 2) what a Variance is 3) what a Special Exception Use is, 4) what a Conditional Use is, and then illustrates the procedures for obtaining permits and/or scheduling hearings for various uses. It also lists the standards that the Borough Council is to employ in determining whether or not to grant permission for certain uses, how the Ordinance will be enforced, how landowners may contest the Zoning Officer's determinations, and how landowners may dispute the Validity of this Ordinance. Administrative provisions that are relevant to the Zoning Officer, Municipal Officials, Borough Council, and the Zoning Hearing Board are also contained in Article II.

Article III, "Non-conforming Buildings and Land Uses", explains what nonconformity is and what extra regulations apply to non-conforming uses. In summary, anyone who has a question concerning how this Ordinance regulates all property should review Article's I, II, and III.

However, many of the regulations in the Ordinance should not be applied to all areas of the Borough due to the differing statutes and goals for each area. So Article IV, "Designation of Zones", divides the Borough into six (6) different "Zoning Districts" – each of which is composed of areas with present-day statues and goals. Therefore, Article V sets forth provisions that differ from one Zoning District to another to accomplish these goals. This article also contains some general zone provisions that apply to a number of land uses.

Article V, “Zone Provisions – Permitted Uses”, then provides sets of regulations for each Zoning District, addressing specific subjects for the district such as permitted land uses, conditional uses, and special requirements found in Article VII, “Signs”. Within each Zoning District in Article V, “Zoning Provisions – Permitted Uses”, are subsections titled “Off-Street Parking” that address the off-street parking requirements for specific land uses within the zones including general requirements, facilities required, and loading and unloading space. A general rule of thumb is that readers who have a question concerning how the Ordinance regulates a property need to read the parts of Article V that concern the Zoning District of that property.

Article VI, “Supplemental Regulations”, constitutes policies that involve and affect all or a majority of Zoning Districts.

Article VII, “Signs”, contains the majority of the Ordinance’s sign regulations including those that apply to all residential districts, portable signs, billboards, and business identification.

Article IX, “Definitions”, provides a glossary of the terms used throughout this Ordinance.

The sections in Article I, II, and III apply to every regulated land use, lot, and structure in the Borough. Because they address each of the Ebensburg Borough’s six (6) Zoning Districts, the sections in Article IV also apply to every regulated land use, lot, and structure in the Borough. However, the sections of Articles V-VII apply only when a provision of Article I, II, or III explicitly says so. Borough officials should be familiar with the entire Ordinance, as well as the Central Cambria Coalition Multi-Municipal Comprehensive Plan.

APPENDICES**Appendix 2:****Where Do I Begin? A Guide Determining Your Property's Regulations**

This section is designed for the person(s) who are not familiar with this Ordinance or zoning regulations in general. Provided is a step-by-step listing of the sections one would read to determine; (1) what zone your property is in; (2) the zone's regulations; (3) applicable permit procedures; and (4) other requirements, if any, as determined by the type and use of the applicable property. In order to accomplish this basic understanding one need only to research the following:

1. The Zoning Map to determine the Zoning District within which the subject property is located;
2. Article IV which designates the various Zoning Districts and how they are bounded and interpreted;
3. Article V to find the regulations for subject property's Zoning District;
4. The first two sections of Article II for Zoning Permit information; and (if applicable)
5. Article VII, "Signs", for sign requirements.

For many applicants the aforementioned reading will cover the necessary sections so the property owner or project manager may become familiar with the procedures and regulations of this Ordinance. However, special regulations or requirements may apply to specific properties or projects. Additional information may need to be reviewed as follows:

1. Articles I, II, and III.
2. any sections specifically referenced by other Articles reviewed, and
3. the parts of Article VIII that define the terms in the aforementioned relevant articles.

APPENDICES**Appendix 3****Statement of Community Development Goals and Objectives for
The Central Cambria Coalition
(Jackson Township, Cambria Township, Ebensburg Borough)****HISTORIC RESOURCES:**

GOAL: To prevent and conserve the Historic Resources and Heritage throughout Jackson Township, Cambria Township, and Ebensburg Borough

Objectives:

- **Maintain an inventory of buildings and structures that are eligible for placement on the National Register of Historic Places.**
- **Research and nominate individual properties to be placed on the National Register of Historic Places.**
- **Promote the preservation of the local heritage.**

NATURAL RESOURCES

GOAL: To conserve, protect, and properly utilize the Natural Resources of Jackson Township, Cambria Township, and Ebensburg Borough.

Objectives:

- **Encourage quality development and redevelopment, which are sensitive to environmental protection issues.**
- **Preserve open green space by concentrating new development within the designated growth areas.**
- **Preserve viewsheds, greenways, and open green space**
- **Preserve environmentally sensitive areas**
- **Preserve the water resources of the Multi-Municipal area.**
- **Utilize the existing coal mines located throughout the Multi-Municipal area.**

LAND USE

GOAL: To preserve the existing scenic and rural character of Jackson Township, Cambria Township, and Ebensburg Borough.

Objectives:

- Conserve existing development concentrations throughout the Multi-Municipal area.
- Revitalize existing development concentrations throughout the Multi-Municipal area.
- Reserve land resources unsuitable for future growth and development as open green space and conservation areas.
- Preserve the historic community patterns of development through the Multi-Municipal area.
- Recognize, preserve, and protect the historic and cultural resources as a means for preserving the visual and historic character of the Multi-Municipal area.

GOAL: To guide future development utilizing recognized principals for good land use development principles and smart growth

Objectives:

- Concentrate future development within Designated and Future Growth Areas, which have been determined to be the most suitable for development and where infrastructure (water and sewer service, and streets and roads) can be made easily available.
- Concentrate future development outside of and adjacent to Designated Growth Areas to accompany the orderly extension of public infrastructure.
- Arrange the variety of land uses in such a manner that they are compatible, complementary, and stable.
- Prevent the mixing of incompatible land uses.
- Encourage “in-fill” development throughout the Multi-Municipal area.
- Insure that land use decisions in the Multi-Municipal area are consistent with the County Comprehensive Plan.
- Promote harmony among existing development, future development, and the natural environment.

GOAL: To locate development in such a manner that access to public utilities and community facilities are most cost effective.

Objectives:

- **Encourage the reuse of any existing developed land and structures throughout the Multi-Municipal area.**
- **Consider conservation subdivisions throughout the Multi-Municipal area.**
- **Use each parcel of land for the purpose to which it is best suited and most beneficial to the Townships, Borough, and their residents.**
- **Encourage balanced development among the various land uses while conserving open green space, natural drainage areas, and viewsheds.**
- **Prevent undesirable land use relationships by eliminating or preventing the adjacent mixing of incompatible land uses, such as, single family homes with intensive industrial operations, businesses, mobile home parks, and large commercial signs in primarily single family areas.**
- **Protect and Preserve the value of the exiting residential areas and homes of the Multi-Municipal area. By preventing or reversing the indiscriminate spread of spot commercial zoning, multi-family occupations of single-family residences, low density scattered residential development, and other less desirable development patterns, which may be scattered through the Multi-Municipal area.**
- **Encourage new development to occur within and immediately adjacent to existing development concentrations, thereby enabling the most efficient and economic provisions of community facilities and the extension of public utilities.**
- **Reserve adequate public open green space and outdoor recreation areas facilities for the enjoyment of present and future population.**
- **Provide oversight of subdivision and land development to insure that public concerns with accessibility, stormwater management, water supply, sewage collection and disposal, and other pertinent and unique factors are adequately considered.**
- **Update and enforce land use controls including: the Zoning Ordinance, the Subdivision Land Development Ordinance, the Floodplain Ordinances, and the Stormwater Management Ordinance to insure orderly future development throughout Jackson Township, Cambria Township, and Ebensburg Borough.**
- **Encourage the “cluster” concept of land development to most efficiently utilize the land resources of the Townships and Borough while reserving adequate open space in all new subdivisions and land developments according to the principals set forth in the Growing Greener concept.**
- **Encourage Traditional Neighborhood Design to maintain the historic look of the Multi-Municipal area.**
- **Prepare and follow land use policies, which provide for and strengthen the existing land use categories.**

- **Assess current and past zoning practices to determine compliance with the ordinances in effect as well as to update the inventory of non-conforming uses throughout the Multi-Municipal area.**

HOUSING

GOAL: To ensure that opportunities for adequate housing are available to all residents of Jackson Township, Cambria Township, and Ebensburg Borough.

Objectives:

- **Conserve the housing stock presently existing throughout Jackson Township, Cambria Township, and Ebensburg Borough**
- **Preserve and protect the architectural integrity of structures throughout the Multi-Municipal area.**
- **Encourage additional non-assisted living areas for seniors**
- **Work to provide more rental units for young business professionals and young families, who are moving to the area for the first time.**
- **Provide opportunities for the development of a variety of housing types within the Multi-Municipal area.**
- **Initiate a program for housing rehabilitation for low and moderate-income homeowners throughout the Multi-Municipal area.**
- **Enable that affordable housing is provided for all income groups throughout the Multi-Municipal area.**
- **Encourage the provision of housing for young professionals such as condos, town homes, and garden apartments.**

ECONOMIC DEVELOPMENT

GOAL: To maintain and create employment through economic development initiatives (job retention, job expansion, and job attraction) by increasing the number, variety, and choice of employment opportunities throughout Jackson Township, Cambria Township, and Ebensburg Borough.

Objectives:

- **Retain existing and create new small business growth throughout the Multi-Municipal area.**
- **Assist local economic development initiatives with technical, non-technical, and financial assistance.**

- **Work in close cooperation with the public utilities, existing development organization, and local, state, and federal agencies in efforts to assist in achieving desired economic development goals and objectives.**
- **Encourage the development of additional industrial/business parks complete with utilities and access within available areas throughout the Multi-Municipal area.**
- **Assist sponsors in obtaining funding for site purchase and site development**
- **Support efforts to provide an adequate transportation network and supply of energy to existing business/industrial sites.**
- **Promote the attraction and location of industry by identifying and preserving sites that have favorable physical characteristics, adequate transportation, and available utilities.**

TRANSPORTATION

GOAL: To adequately maintain the existing highway, road, and street system throughout Jackson Township, Cambria Township, and Ebensburg Borough according to generally accepted maintenance standards necessary to meet the needs of the county's population, those of the commercial and industrial establishments, plus those of the recreation and tourism industry.

Objectives:

- **Work with PennDOT to improve and maintain the major routes within the Multi-Municipal area: U.S. 22 U.S. 422, and U.S. 219 and State Routes 271, 3039, 3041, 3043, 3045, and 3047.**
- **Work to upgrade and maintain safe intersections which have been identified as being dangerous through the Multi-Municipal area, paying close attention to: the intersection of West High Street and New Germany Road and U.S. Route 219 and U.S. 422 intersection.**
- **Work to ensure all State Routes and Township roads are maintained at an acceptable level throughout the Multi-Municipal area.**
- **Provide adequate signage, signalizations, and lighting for all highways and streets throughout the more densely developed areas of the Multi-Municipal area.**
- **Increase the level of traffic enforcement, particularly in regard to speeding and obeying stop signs, plus other traffic control devices.**
- **Work to eliminate heavy truck traffic through Ebensburg Borough and throughout Jackson and Cambria Township, to insure safety for pedestrians and other drivers.**
- **Follow the transportation guidelines established by the Southern Alleghenies Planning and Development Commission, the Cambria County Planning Commission, and PennDOT.**

GOAL: To plan and implement future transportation improvements to serve Jackson Township, Cambria Township, and Ebensburg Borough to solve existing transportation and identified traffic problems, as well as meeting projected future transportation needs.

Objectives:

- **Prepare and maintain a list of candidate transportation projects (highways and bridges) and recommend them on a bi-annual basis for inclusion in the Pennsylvania Department of Transportation (PennDOT) 12-Year Program and the Transportation Improvements Program (TIP)**
- **Provide for safe, convenient usage of local routes by both bicyclists and pedestrians throughout the Multi-Municipal area: Share The Road Program.**
- **Ensure the efficient and safe movement of traffic among the commercial, residential, and industrial areas of the area.**
- **Provide for future traffic to, from, and within new developments.**
- **Institute a program of access management for ingress and egress to and from roadside development.**
- **Institute a pavement management program for all of the municipalities' streets and roads.**

COMMUNITY FACILITIES

GOAL: To provide community facilities including recreational facilities and organized activities and programs for the use and enjoyment of the residents and visitors of Jackson Township, Cambria Township, and Ebensburg Borough.

Objectives:

- **Provide adequate maintenance for existing community facilities and services to assure their longevity in serving the residents of the Townships and Borough.**
- **Institute a phased improvement program for Parks and Recreation Facilities throughout the Multi-Municipal area.**
- **Bring into American with Disabilities Act (ADA) compliance all municipal buildings and facilities to serve the residents of the Multi-Municipal area.**
- **Maintain the Ghost Town Trail for walking/hiking/biking throughout the Townships and Borough.**

GOAL: To increase the livability and attractiveness of Jackson Township, Cambria Township, and Ebensburg Borough through the adequate provision of a wide range of community facilities which are easily accessible to all the citizenry of the Multi-Municipal area.

Objectives:

- **Provide adequate municipal buildings and facilities to accommodate the expanding needs of government in Jackson Township, Cambria Township, and Ebensburg Borough.**
- **Provide adequate school complexes with space for the necessary adjunctive facilities strategically located with respect to the communities, which they serve.**
- **Provide adequate fire, police protection, and emergency service to the Multi-Municipal area.**
- **Continue to share and purchase equipment among the three (3) municipalities.**

PUBLIC UTILITIES

GOAL: To provide municipal water and sewer service to a majority of the residents and businesses of Jackson Township, Cambria Township, and Ebensburg Borough.

Objectives:

- **Maintain and improve the water distribution system and the water quality in the Multi-Municipal area.**
- **Encourage regional and cooperative water and sewer authorities.**
- **Follow the standards of the Commonwealth Comprehensive Water Quality Management Plan**
- **Maintain the existing sewage collection system and treatment facility to accepted standards set forth by the DEP and the EPA.**
- **Continue to inspect new on-lot sewage systems and monitor existing on-lot sewage systems as per any existing sewerage ordinance.**
- **Encourage development to occur in areas that are presently served with public water and sewer.**
- **Require all new residential, commercial, and industrial developments to tap into available public water and sewer systems.**
- **Review and implement the content, proposals, and recommendations of the Sewage Facilities Act 537 Plan for Jackson Township, Cambria Township, and Ebensburg Borough.**
- **Prepare and submit applications for financial assistance to Penn Vest, the Pennsylvania Department of Economic Development (DCED), and other applicable programs to expand community water and sewer systems, which will be needed for the future development of the Multi-Municipal area.**

- **Strengthen working relationships with the surrounding municipalities, the Cambria County Planning Commission, and the Southern Alleghenies Planning and Development Commission.**
- **Expand the function of the Central Cambria Coalition and continue to share services such as maintenance vehicles, recreation areas, joint purchasing and other resources and functions.**

(Ord. 574. 6/28/2010)