

ORDINANCE NO _____

AN ORDINANCE OF THE BOROUGH OF GREENCASTLE, FRANKLIN COUNTY, PENNSYLVANIA AMENDING CHAPTER 205, “ZONING”, OF THE CODE OF THE BOROUGH OF GREENCASTLE

WHEREAS, the Pennsylvania Municipalities Planning Code, 53 P.S. §§10101-11202, (the “MPC”) in Section 601 provides that a municipality may enact, amend, and repeal zoning ordinances; and

WHEREAS, the Borough desires to implement a comprehensive rezoning including a comprehensive overhaul of the text of the zoning ordinance and the implementation of a new zoning map; and

WHEREAS, the Borough has developed the contents of the proposed comprehensive rezoning through the review and comments of the Borough of Greencastle Engineer, the Borough of Greencastle Planning Commission, and the Franklin County Planning Commission; and

WHEREAS, the Borough Council for the Borough of Greencastle, Franklin County, Pennsylvania, deems it to be in the best interest and the general welfare of the citizens and residents of the Borough to enact the new zoning text and Zoning Map, as set forth below.

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Mayor and Borough Council of the Borough of Greencastle, Franklin County, Pennsylvania, and it is enacted and ordained as follows:

SECTION I: Chapter 205 of the Code of the Borough of Greencastle, entitled “Zoning”, is hereby amended by removing the contents of the Chapter in its entirety.

SECTION II: Chapter 205 of the Code of the Borough of Greencastle, entitled “Zoning”, is hereby amended by adding the following content:

Article I. Objectives.

Section 205-1 Community development objectives.

There is hereby established a comprehensive zoning plan for the Borough, which plan is set forth in the text and map that constitute this chapter. Said plan is adopted in the interest of protecting and promoting the public health, safety, morals, and general welfare, and shall be deemed to include the following related and specific community development objectives, among others as may be stated in the Borough of Greencastle Comprehensive Plan:

- A. To guide and regulate the orderly growth, development, and redevelopment of the Borough, in accordance with a comprehensive plan of long-term objectives, principles, and standards deemed beneficial to the interest and welfare of the people.
- B. To protect the established character and the social and economic well being of both private and public property.
- C. To promote, in the public interest, the utilization of land for the purposes for which it is most appropriate, and to provide maximum protection of residential areas.
- D. To secure safety from floods, water pollution, and other dangers, and to provide adequate light, air, and convenience of access.
- E. To encourage and facilitate the provision of adequate and efficient public facilities, service and utilities.
- F. To lessen and, where possible, to prevent traffic congestion on public streets and highways so as to promote efficient and safe circulation of vehicles and pedestrians.
- G. To discourage, prohibit and gradually eliminate the expansion and undue perpetuation of nonconforming uses and structures.
- H. To conserve the value of buildings and to enhance the value of land throughout the Borough.

Article II. Establishment of Zoning Districts.

Section 205-2 List of Districts.

The Borough is hereby divided into the classes of districts listed below:

(R-1)	Low-Density Residential District
(R-2)	Medium-Density Residential District
(I)	Industrial District
(CC)	Community Commercial District
(HC)	Highway Commercial District
(R-M)	Residential-Mobile Home District
(MX)	Mixed-Use District
(INS)	Institutional District

Section 205-3 Zoning Map.

The boundaries of the said districts are hereby established as shown on the "Greencastle Zoning Map," which accompanies and which, with all explanatory matter thereof, is hereby adopted and

made a part of this chapter. A copy of said map, indicating the latest amendments, shall be kept up-to-date for the use and benefit of the public.

Section 205-4 District Boundaries.

In determining the boundaries of districts shown on the Zoning Map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the center lines of streets, highways, watercourses or railroad rights-of-way or such lines extended, such center lines shall be construed to be such boundaries.
- B. Where such boundaries are indicated as approximately following the property lines of parks or other publicly owned lands, such lines shall be construed to be such boundaries.
- C. Unless otherwise shown, all district boundaries running parallel to streets shall be construed to be 200 feet back from the rights-of-way of said streets.
- D. In all cases where a district boundary divides a lot in one ownership, the most restrictive district requirement, or control, shall apply. For the purpose of this section, the most restrictive district shall be deemed that district subject to regulations which prohibit the use intended to be made of said lot or require higher standards with respect to coverage, yards, screening, landscaping and similar requirements.
- E. In all cases where a district boundary line is located not farther than 15 feet away from a lot line of record, such boundary line shall be construed to coincide with such lot line.
- F. In all cases where dimensions are not shown on the Zoning Map, the location of boundaries shown on the map shall be determined by the use of the scale appearing thereon.
- G. In case of uncertainty as to the true location of a district boundary line in a particular instance, the determination thereof shall be made by the Zoning Officer. An appeal may be taken to the Zoning Hearing Board, as provided in Article VIII herein.

Section 205-5 Effect of Establishment of Districts.

Following the effective date of this chapter and except as herein provided:

- A. No building shall be erected, moved, altered, rebuilt or enlarged nor shall any land or building be used, designed or arranged to be used for any purpose or in any manner except in conformity with all regulations, requirements, and restrictions specified in this chapter for the district in which such building or land is located.
- B. No yard or open space required in connection with any building or use shall be considered as providing a required yard or open space for any other building on the same or any other lot.

- C. No lot shall be formed from part of a lot already occupied by a building unless such building, all yards, and open spaces connected therewith, and the remaining lot comply with all requirements prescribed by this chapter for the district in which said lot is located. No building permit shall be issued for the erection of a building on any new lot thus created unless such building and lot comply with all the provisions of this chapter.
- D. No more than one principal use may exist on a single parcel or tract of land.
- E. Nothing contained in this chapter shall require any change in the plans, construction, or designated use of a building complying with local laws in force prior to this chapter, if the following is found to exist:
 - 1. A building permit shall have been duly issued prior to the date of first publication of notice of the public hearing on this chapter.
 - 2. The entire building shall have been constructed in accordance with such plans as have been filed with the Borough and shall have been completed within one year from the effective date of this chapter.
- F. Any use not permitted by this chapter shall be deemed to be prohibited. Any list of prohibited uses contained in any section of this chapter shall not be deemed to be an exhaustive list but has been included for the purpose of clarity and emphasis, and to illustrate, by example, some of the uses frequently proposed that are deemed undesirable and incompatible and are thus prohibited.
- G. A lot shall be deemed to satisfy the frontage required as long as it has the minimum lot width on a public street that is required for the zoning district in which the lot is located.

Article III. District Use Regulations.

Section 205-6 (R-1) Residential District.

- A. Permitted uses.
 - 1. Single-family detached dwellings.
 - 2. Single-family semidetached dwellings.
 - 3. Agricultural operations including crop farming and animal husbandry subject to the following:
 - a. No stable or storage of manure or other odor producing substance shall be located within 200 feet of any property line.

- b. No sale of products shall be permitted.
 - c. No keeping, breeding, and/or raising of cattle, sheep, goats, pigs, fowl, or horses, including rental horses, shall be permitted on lots of less than 20 acres.
 - 4. Essential services.
 - 5. Accessory uses.
 - 6. Parking, storage or use of recreational vehicles.
- B. Special exceptions. Churches may be permitted as a special exception in accordance with the procedures of Article VII and subject to satisfactory compliance with the following:
 - 1. It shall be the responsibility of the applicant to adequately demonstrate to the Zoning Hearing Board that such special exception will be compatible with adjacent uses, neighborhood characteristics and the objectives of this chapter.
 - 2. A site development plan shall be submitted with any special exception application under this subsection.
- C. Lot area and related regulations for detached dwellings in the Residential District.
 - 1. Lot size, width, and depth. The lot size, width, and depth shall not be less than the following dimensions in this zone:
 - a. Lot size minimum: 9,000 square feet.
 - b. Lot width minimum: 70 feet.
 - c. Lot depth minimum: 100 feet.
 - 2. Setbacks. Each lot shall provide front, side, and rear setbacks not less than the following:
 - a. Front setback: 25 feet.
 - b. Side setback: 10 feet on both sides.
 - c. Rear setback: 25 feet.
 - 3. Height. The height limit for a single-family detached dwelling is 35 feet.
 - 4. Lot coverage. Not more than 40% of the lot area shall be covered with impervious surface materials.

5. Vegetative cover. At least 30% of the lot area shall be maintained in a vegetative cover.

D. Lot area and related regulations for semi-detached dwellings in the Residential District.

1. Lot size, width, and depth. The lot size, width, and depth shall not be less than the following dimensions in this zone:

a. Lot size minimum: 5,000 square feet.

b. Lot width minimum: 40 feet.

c. Lot depth minimum: 100 feet.

2. Setbacks. Each lot shall provide front, side, and rear setbacks not less than the following:

a. Front setback: 25 feet.

b. Side setback: 10 feet on both sides.

c. Rear setback: 25 feet.

3. Height. The height limit for a single-family detached dwelling is 35 feet.

4. Lot coverage. Not more than 40% of the lot area shall be covered with impervious surface materials.

5. Vegetative cover. At least 30% of the lot area shall be maintained in a vegetative cover.

Section 205-7 (R-2) General Residential District.

A. Permitted uses.

1. Single-family detached dwellings.

2. Single-family semidetached dwellings.

3. Two-family detached dwellings.

4. Attached dwellings.

5. Multifamily dwellings.

6. Conversions of existing residences to a two-or-more-family dwelling subject to the following:
 - a. A minimum of two off-street parking spaces shall be provided on the same lot for each additional dwelling unit created.
 - b. Each dwelling unit shall have private bath and toilet facilities.
7. A site development plan shall be required for all residential uses when three or more dwelling units are proposed (Uses 4, 5 and 6 above).
8. Churches.
9. Essential services.
10. Accessory uses.
11. Parking, storage or use of recreational vehicles.

B. Special exceptions.

1. It shall be the responsibility of the applicant to adequately demonstrate to the Zoning Hearing Board that such special exception will be compatible with adjacent uses, neighborhood characteristics and the objectives of this chapter.
2. A site development plan shall be submitted with any special exception application under this subsection.
3. Outdoor recreational facilities such as tennis courts, swimming pools, etc., subject to the following:
 - a. Any such use shall not outwardly display its commercial nature other than by a sign in accordance with § 205-27C(3).
 - b. The Zoning Hearing Board may require specific screening measures where in its opinion the proposed parking areas may be detrimental to other orderly use of adjacent properties.
 - c. All exterior lighting shall be shielded from the view of surrounding lots.
 - d. A minimum lot size of 20,000 square feet with a minimum frontage of 80 feet and side yards of 15 feet shall be provided.
 - e. The applicant shall conclusively demonstrate that all anticipated parking needs shall be adequately provided.

4. Home Child Day-Care centers and similar institutions subject to the following:
 - a. All parking areas shall be screened from adjacent properties.
 - b. All outdoor recreation areas shall be screened from adjacent properties.
 - c. A minimum lot size of 20,000 square feet with a minimum frontage of 80 feet and side yards of 15 feet shall be provided.

5. Bed-and-breakfast.
 - a. No more than four rental units shall be provided, and no more than four persons may occupy one rental unit.
 - b. At least one bathroom shall be provided for use by guests.
 - c. There shall be no use of show windows or any type of display or advertising visible from outside the premises, except for a single non-illuminated sign no larger than two square feet in size.
 - d. A preexisting residence shall retain a residential appearance and character.
 - e. The use shall be operated only by persons who reside within the bed-and-breakfast and by a maximum of one nonresident employee.
 - f. There shall be no separate cooking facilities in any guest room. Food shall only be served to guests who are staying overnight.
 - g. The maximum, uninterrupted length of stay at a bed-and-breakfast shall be 14 days.
 - h. The use of any amenities provided by the bed-and-breakfast, such as swimming pool or tennis court, shall be restricted in use to the guests and permanent residents of the establishment.
 - i. A minimum of one off-street parking space shall be provided on the same lot for each rental unit.
 - j. The bed-and-breakfast facilities may be used as the location for weddings up to five times a calendar year.

C. Lot area and related regulations in the General Residential District:

1. Lot size, width, and depth. The lot size, width, and depth shall not be less than the following dimensions in this zone:

- a. Lot size minimum: 9,000 square feet.
 - b. Lot width minimum: 70 feet.
 - c. Lot depth minimum: 100 feet.
2. Setbacks. Each lot shall provide front, side, and rear setbacks not less than the following:
 - a. Front setback: 25 feet.
 - b. Side setback: 15 feet on both sides.
 - c. Rear setback: 25 feet.
3. Height. The height limit is 40 feet.
4. Lot coverage. Not more than 50% of the lot area shall be covered with impervious surface materials.
5. Vegetative cover. At least 35% of the lot area shall be maintained in a vegetative cover.
6. Multiple dwelling residences.
 - a. In addition to the other lot requirements set forth above, lots which include multiple dwelling residences shall provide:
 - i. a detached active play area of at least 100 square feet per dwelling unit
 - ii. a distance of at least 30 feet between multiple dwelling units on the same lot.
 - iii.

Section 205-8 (CC) Community Commercial District.

A. Permitted uses.

1. Single-family detached dwellings.
2. Single-family semidetached dwellings.
3. Two-family detached dwellings.
4. Attached dwellings.
5. Multi-family dwellings.

6. Conversions of existing residences to a two-or-more family dwelling subject to the following:
 - a. A minimum of two off-street parking spaces shall be provided on the same lot for each additional dwelling unit created.
 - b. Each dwelling unit shall have private bath and toilet facilities.
7. A site development shall be required for all residential uses when three or more dwelling units are proposed (Uses 4, 5, and 6 above).
8. Churches.
9. Essential services.
10. Accessory Uses.
11. Parking, storage, or use of recreational vehicles.
12. Retail businesses (e.g., convenience stores, groceries, apparel, etc., and including Tavern/Bar and Restaurant).
13. Service businesses (e.g., banks, insurance, professional offices).
14. Personal services (e.g., barber shops, beauty salons, laundry).
15. Repair services (e.g., shoe shops, beauty salons, laundry).
16. Manufacturing and processing which is clearly incidental to a retail or service business as listed above and provided all the goods so manufactured or processed are sold on the premises.
17. Newspaper, printing establishments, and broadcasting studios; provided, however, that any antennas or towers associated with the broadcasting studios are:
 - a. Attached to the roof of the primary structure and extend not more than 20 feet above the highest level of the roof of the primary structure in accordance with the definition of "building" in § 205-56 hereof; and
 - b. That electromagnetic frequency and radio frequency interference from the antennas or towers shall be limited as required by the Federal Communications Commission, and certification of such compliance shall be provided to the Borough with any application for approval of the broadcast studio.
18. Hotels.

19. Multiple occupancy buildings provided each such use is permitted in the CC District.

B. Special exceptions.

1. It shall be the responsibility of the applicant to adequately demonstrate to the Zoning Hearing Board that such special exception will be compatible with adjacent uses, neighborhood characteristics and the objectives of this chapter.
2. A site development plan shall be submitted with any special exception application under this subsection.
3. Boardinghouse, subject to the following conditions:
 - a. Minimum lot area: 1/2 acre.
 - b. Minimum setback from all lot lines: 25 feet.
 - c. Minimum lot width: 150 feet.
 - d. Maximum density: eight rental units per acre.
 - e. Each rental unit shall be limited to a maximum of two persons each.
 - f. Interior space: a minimum of 300 square feet of interior floor space per rental unit.
 - g. The owner or the owner's legal representative must reside at the boardinghouse.
 - h. Signs shall be limited to two signs with a maximum of two square feet each and shall comply with all other provisions of § 205-27.
 - i. Minimum of one bathroom for each rental floor of the boardinghouse.
4. Outdoor recreational facilities such as tennis courts, swimming pools, etc., subject to the following:
 - a. Any such use shall not outwardly display its commercial nature other than by a sign in accordance with § 205-19C(3).
 - b. The Zoning Hearing Board may require specific screening measures where in its opinion the proposed parking areas may be detrimental to other orderly use of adjacent properties.
 - c. All exterior lighting shall be shielded from the view of surrounding lots.

- d. A minimum lot size of 20,000 square feet with a minimum frontage of 80 feet and side yards of 15 feet shall be provided.
 - e. The applicant shall conclusively demonstrate that all anticipated parking needs shall be adequately provided.
5. Home child day care, Child day care center, Nursing homes and similar institutions subject to the following:
- a. All parking areas shall be screened from adjacent properties.
 - b. All outdoor recreation areas shall be screened from adjacent properties.
 - c. A minimum lot size of 20,000 square feet with a minimum frontage of 80 feet and side yards of 15 feet shall be provided.
6. Bed-and-breakfast.
- d. No more than four rental units shall be provided, and no more than four persons may occupy one rental unit.
 - e. At least one bathroom shall be provided for use by guests.
 - f. There shall be no use of show windows or any type of display or advertising visible from outside the premises, except for a single nonilluminated sign no larger than two square feet in size.
 - g. A preexisting residence shall retain a residential appearance and character.
 - h. The use shall be operated only by persons who reside within the bed-and-breakfast and by a maximum of one nonresident employee.
 - i. There shall be no separate cooking facilities in any guest room. Food shall only be served to guests who are staying overnight.
 - j. The maximum, uninterrupted length of stay at a bed-and-breakfast shall be 14 days.
 - k. The use of any amenities provided by the bed-and-breakfast, such as swimming pool or tennis court, shall be restricted in use to the guests and permanent residents of the establishment.
 - l. A minimum of one off-street parking space shall be provided on the same lot for each rental unit.

- m. The bed-and-breakfast facilities may be used as the location for weddings up to five times a calendar year.

C. Frontage requirement. No lot may solely have frontage on a minor street which provides secondary access to the rear or side of properties otherwise abutting a street (an alley); frontage solely on an alley is not permitted. For the purpose of this subsection, the definition of "street" shall not include "alley."

D. Lot area and related regulations in the Community Commercial District.

1. All dwellings.

- a. Lot area, width, and depth. The lot area shall not be less than the following dimensions for each use hereafter established in this zone:

- (1) Lot area minimum: 6,000 square feet per use.

- (2) Lot width minimum: 35 feet.

- (3) Lot depth minimum: 100 feet.

- b. Setbacks. Each lot shall provide front, side, and rear setbacks not less than the following:

- (1) Front setback: 10 feet.

- (2) Side setback: 3 feet on each side.

- (3) Rear setback: 10 feet.

- c. Height. No building shall exceed 50 feet in height.

- d. Lot coverage. Not more than 65% of the area shall be covered with impervious surface materials.

- e. Vegetative cover. At least 25% of the lot area shall be maintained in a vegetative cover.

2. Commercial structures.

- a. Lot area, width, and depth. The lot area shall not be less than the following dimensions for each commercial use hereafter established in this zone:

- (1) Lot area minimum: -

- (2) Lot width minimum: -

- (3) Lot depth minimum: -

- b. Setbacks. Each lot shall provide front, side, and rear setbacks not less than the following:
 - (1) Front setback: -
 - (2) Side setback: -
 - (3) Rear setback: -
- c. Height. No building shall exceed 50 feet in height.
- d. Lot coverage. Not more than 65% of the area shall be covered with impervious surface materials.
- e. Vegetative cover. At least 20% of the lot area shall be maintained in a vegetative cover.

E. Special design criteria. The following requirements shall apply:

- 1. Permitted uses shall be contained completely within a building or structure.
- 2. The storage of business merchandise, equipment, and any other associated materials must be contained within a building.

Section 205-9 (HC) Highway Commercial District.

A. Permitted uses.

- 1. Hotels and motels.
- 2. Shopping centers in accordance with the following:
 - a. Access. There shall be a minimum of two separate points of ingress and egress and no access points shall be located within 70 feet of intersecting streets, unless such points are located directly at an intersection.
 - b. Management. A shopping center shall be under unified management which shall clearly establish centralized responsibility for the operation and maintenance of the project, including all common areas.

Signs. There shall be only one freestanding sign per road frontage which shall be designed and used for the purpose of announcing the shopping center itself in compliance with the applicable provisions of this chapter.

- c. Circulation. Traffic circulation within a shopping center project shall be designed to minimize pedestrian and vehicular mixing and congestion. Circulation shall be provided along the outer perimeters and along store frontages.
 - d. Setback requirements. Shopping centers shall comply with the yard and setback requirements for the (HC) Highway Commercial District.
3. Automotive sales and services.
4. Motor vehicle, mobile home, trailer, construction or farm equipment sales and services.
5. Freight, bus, and trucking terminals.
6. Wholesaling, storing and warehousing.
7. Essential services.
8. Accessory uses including out-of-doors storage provided no such storage shall occupy the required front yard area or be located within 10 feet of the side or rear property lines.
9. Multiple occupancy buildings.
10. Tattoo establishment.
11. Pawnbroker. The pawnbroker use shall not be a permitted use in any other district.
12. Nursing Home.
13. Commercial recreation facilities.
14. Retail businesses (e.g., variety stores, groceries, apparel, etc., and including eating and drinking establishments).
15. Service businesses (e.g., banks, insurance, professional offices).
16. Personal services (e.g., barber shops, beauty salons, laundry).
17. Repair services (e.g., shoe shops, beauty salons, laundry).
18. Manufacturing and processing which is clearly incidental to a retail or service business as listed above and provided all the goods so manufactured or processed are sold on the premises.
19. Newspaper, printing establishments, and broadcasting studios; provided, however, that any antennas or towers associated with the broadcasting studios are:

- a. Attached to the roof of the primary structure and extend not more than 20 feet above the highest level of the roof of the primary structure in accordance with the definition of "building" in § 205-56 hereof; and
- b. That electromagnetic frequency and radio frequency interference from the antennas or towers shall be limited as required by the Federal Communications Commission, and certification of such compliance shall be provided to the Borough with any application for approval of the broadcast studio.

20. Single-family detached dwellings.

21. Single-family semidetached dwellings.

22. Two-family detached dwellings.

23. Attached dwellings.

24. Multifamily dwellings.

25. Conversions of existing residences to a two-or-more-family dwelling subject to the following:

- a. A minimum of two off-street parking spaces shall be provided on the same lot for each additional dwelling unit created.
- b. Each dwelling unit shall have private bath and toilet facilities.

26. A site development plan shall be required for all residential uses when three or more dwelling units are proposed (Uses 23, 24 and 25 above).

27. Churches.

B. Special exceptions.

1. It shall be the responsibility of the applicant to adequately demonstrate to the Zoning Hearing Board that such special exception will be compatible with adjacent uses, neighborhood characteristics and the objectives of this chapter.
2. Light manufacturing, assembling, converting, altering, finishing, or other processing of products or materials and research and development establishments and related accessory uses subject to the following:

- a. It shall be satisfactorily demonstrated that the proposed use will be compatible with adjacent uses and neighborhood characteristics, and that the magnitude of operation does not necessitate locating in the (I) Industrial District.
 - b. All illumination shall be arranged so that there shall be no glare of lights upon a residential district or existing residence.
 - c. No out-of-doors storage shall occupy the required front yard area or be located within 10 feet of the side or rear property lines.
 - d. Area, parking, and setback distance shall be in compliance with the (HC) Highway Commercial District requirements.
- C. Any use contemplated by this section must comply with all other applicable provisions of this chapter including the provisions of Article IV dealing with parking, screening, off-street loading, and signs.
- D. Lot area and related regulations in the Highway-Commercial District.
1. Lot size minimum: 20,000 square feet.
 2. Front yard minimum: 35 feet.
 3. Side yard: 20 feet on both sides.
 4. Rear yard: 25 feet.
 5. Height: No building shall exceed 50 feet in height.
 6. Lot coverage: Not more than 65% of the lot shall be covered in impervious surface materials.
 7. Vegetative cover. At least 20% of the lot area shall be maintained in a vegetative cover.

Section 205-10 (I) Industrial District.

- A. Permitted uses.
1. Manufacturing, assembling, converting, printing or other processing, handling, or storage of products or materials.
 2. Wholesaling, storing, and warehousing.
 3. Freight, bus, and trucking terminals.
 4. Building material and equipment and vehicle storage, sales and service.
 5. Research and development.

6. Accessory uses and buildings customarily incidental to other permitted principal uses including dwellings for only bona fide caretakers or watchmen and their families.

B. Special exceptions.

1. It shall be the responsibility of the applicant to adequately demonstrate to the Zoning Hearing Board that such special exception will be compatible with adjacent uses, neighborhood characteristics and the objectives of this chapter.
2. Adult bookstore, adult motion-picture theater or cabaret, massage parlor, health club or health spa, or model studio subject to the following:
 - a. It shall be unlawful to establish an adult bookstore, adult motion-picture theater or cabaret, massage parlor, health club or health spa, or model studio within 500 feet of any school, church, residential zone, establishment licensed by the Pennsylvania Liquor Control Board to dispense alcoholic beverages, any restaurant, eating establishment, hotel or motel, or within 500 feet of any other adult bookstore, adult motion-picture theater or cabaret, massage parlor, health club or health spa, or model studio, except as a special exception in accordance with the procedures set forth in this section.
 - b. The Zoning Hearing Board may authorize the establishment of an adult bookstore, adult motion-picture theater or cabaret, massage parlor, health club or health spa, or model studio within 500 feet of any school, church, residential zone, establishment licensed by the Pennsylvania Liquor Control Board to dispense alcoholic beverages, any restaurant, eating establishment, hotel or motel, or within 500 feet of any other adult bookstore, adult motion-picture theater or cabaret, massage parlor, health club or health spa, or model studio, only if the following findings are made by the Board:
 - (1) That the applicant has presented to the Board a petition which indicates approval of the proposed use by 51% of the persons owning, residing or doing business within 500 feet of the location of the proposed use.
 - (2) The applicant shall have attempted to contact all eligible locations within this radius, and must supply a list of all addresses at which no contact was made.
 - (3) The circulator of the petition shall have subscribed to an affidavit or verification pursuant to 18 Pa.C.S.A. § 4904 attesting to the fact that the circulator personally witnessed the signatures on the petition and that the same were affixed to the petition by the persons whose names appear thereon.

C. Lot area and related regulations for the Industrial District.

1. Lot size, width, and depth. The lot size, width, and depth shall not be less than the following dimensions for all buildings in this zone:
 - a. Lot size minimum: 20,000 square feet.
 - b. Lot width minimum: 100 feet.
 - c. Lot depth minimum: 200 feet.
2. Setbacks. Each lot shall provide front, side, and rear setbacks not less than the following:
 - a. Front setback: 35 feet.
 - b. Side setback: 20 feet on both sides.
 - c. Rear setback: 30 feet.
3. Height. The height limit for a detached commercial or industrial use is 50 feet.
4. Lot coverage regulations. Not more than 70% of the lot area shall be covered with impervious surface materials.
5. Vegetative cover. At least 20% of the lot area shall be maintained in a vegetative cover.
6. Any commercial or industrial use which is adjacent to a residential district or existing residential use shall be screened along the adjacent property line as defined in this Chapter.

Section 205-11 (R-M) Residential – Mobile Home District.

A. Permitted uses.

1. Single-family detached dwellings.
2. Single-family semidetached dwelling.
3. Attached dwelling residences.
4. Individual mobile homes not in a mobile home park.
5. Accessory and essential services.

B. Special exceptions.

1. It shall be the responsibility of the applicant to adequately demonstrate to the Zoning Hearing Board that such special exception will be compatible with adjacent uses, neighborhood characteristics and the objectives of this chapter.
2. Mobile home park subject to the following:
 - a. Applicable requirements of Article VIII of this chapter.
 - b. Must conform to Article IX of Section 180 of the Code of the Borough of Greencastle.
- C. Notwithstanding the limitation of Section 205-5(D.), in the Residential – Mobile Home District more than one principal use may exist on a single parcel or tract of land.
- D. Lot area and related regulations in the Residential – Mobile Home District:
 1. Lot size, width, and depth. The lot size, width, and depth shall not be less than the following dimensions in this zone:
 - a. Lot size minimum: 15,000 square feet.
 - b. Lot width minimum: 100 feet.
 - c. Lot depth minimum: 150 feet.
 3. Setbacks. Each lot shall provide front, side, and rear setbacks not less than the following:
 - a. Front setback: 20 feet.
 - b. Side setback: 10 feet on both sides.
 - c. Rear setback: 15 feet.
 3. Height. The height limit is 35 feet.
 4. Lot coverage. Not more than 45% of the lot area shall be covered with impervious surface materials.
 5. Vegetative cover. At least 35% of the lot area shall be maintained in a vegetative cover.

Section 205-12 (MX) Mixed-Use District

The mixed-use district's purpose is to encourage multiple functions within the same building or the same general area through either: combining different uses in the same building or combining

complementary single-use buildings on a parcel, to encourage pedestrian activity and traffic efficiency, with resources, such as parking, shared by the complementary uses.

A. Permitted Uses.

1. Single-family attached dwellings.
2. Multi-family dwellings.
3. Mixed Commercial/Residential Structures.
4. Retail/Restaurant.
5. On-site production with on-site retail or restaurant use.
6. Multi-purpose venue.
7. Business incubators which may house multiple uses including retail, services, and light manufacturing.
8. Professional office.
9. Art gallery.
10. Craftsman/artisan studio.
11. Copy shop/business studio.
12. Commercial school.
13. Veterinarian.
14. Theatre (indoor) (excluding Adult Motion Picture Theatre).
15. Clubhouse (private).
16. Commercial recreation (indoor).
17. No impact home based business.
18. Museum.
19. Multiple occupancy buildings.
20. Accessory uses including community garden, outdoor café/dining, and automated banking facility.
21. Essential services.
22. Arts & Learning Center.
23. Assisted Living Residence.
24. Shopping Center (Town).

B. Special Exceptions.

1. It shall be the responsibility of the applicant to adequately demonstrate to the Zoning Hearing Board that such special exception will be compatible with adjacent uses, neighborhood characteristics and the objectives of this chapter.
2. University/college.
 - a. The site must be adequate for proper building, drainage, water supply, and sewage disposal. Site size and space requirements shall be in accordance with applicable state or Federal standards and practice for the use proposed.
 - b. Sufficient amounts of usable space must shall be provided for recreation areas, parking, loading, etc.

- c. The site shall not be subject to noises, odors, smoke, dirt, dust, and other environmental factors which are inconsistent with the standards set forth in this Chapter.
- d. Pedestrian and vehicular circulation must be designed for safety and efficiency to achieve separation of vehicular and pedestrian traffic.
- e. The site shall be located and planned in such a manner that it can be used for both its intended function and general community functions, if appropriate, and shall be attractively landscaped.

3. School (public/private).

- a. The site must be adequate for proper building, drainage, water supply, and sewage disposal. Site size and space requirements shall be in accordance with applicable state or Federal standards and practice for the use proposed.
- b. Sufficient amounts of usable space must shall be provided for recreation areas, parking, loading, etc.
- c. The site shall not be subject to noises, odors, smoke, dirt, dust, and other environmental factors which are inconsistent with the standards set forth in this Chapter.
- d. Pedestrian and vehicular circulation must be designed for safety and efficiency to achieve separation of vehicular and pedestrian traffic.
- e. The site shall be located and planned in such a manner that it can be used for both its intended function and general community functions, if appropriate, and shall be attractively landscaped.

4. Hotel.

- a. Minimum lot area: 15,000 square feet.
- b. Signs and outdoor lighting shall be in accordance with specific provisions of this Ordinance.
- c. Provisions shall be made for the convenient disposal of refuse.
- d. Off-street parking shall be provided in accordance with the provisions of this Ordinance.
- e. A fifteen foot buffer area, consisting of evergreen plant material at least six feet high and no more than forty percent open, shall be provided where a lot abuts a

residential zone. In the event of a conflict with another screening requirement, this provision shall control.

5. Bed and breakfast.

- a. No more than four rental units shall be provided, and no more than four persons may occupy one rental unit.
- b. At least one bathroom shall be provided for use by guests.
- c. There shall be no use of show windows or any type of display or advertising visible from outside the premises, except for a single non-illuminated sign no larger than two square feet in size.
- d. A preexisting residence shall retain a residential appearance and character.
- e. The use shall be operated only by persons who reside within the bed-and-breakfast and by a maximum of one nonresident employee.
- f. There shall be no separate cooking facilities in any guest room. Food shall only be served to guests who are staying overnight.
- g. The maximum, uninterrupted length of stay at a bed-and-breakfast shall be 14 days.
- h. The use of any amenities provided by the bed-and-breakfast, such as swimming pool or tennis court, shall be restricted in use to the guests and permanent residents of the establishment.
- i. A minimum of one off-street parking space shall be provided on the same lot for each rental unit.
- j. The bed-and-breakfast facilities may be used as the location for weddings up to five times a calendar year.

6. Continuing care retirement facility.

7. Vocational school.

- a. The site must be adequate for proper building, drainage, water supply, and sewage disposal. Site size and space requirements shall be in accordance with applicable state or Federal standards and practice for the use proposed.
- b. Sufficient amounts of usable space must shall be provided for recreation areas, parking, loading, etc.
- c. The site shall not be subject to noises, odors, smoke, dirt, dust, and other environmental factors which are inconsistent with the standards set forth in this Chapter.

- d. Pedestrian and vehicular circulation must be designed for safety and efficiency to achieve separation of vehicular and pedestrian traffic.
 - e. The site shall be located and planned in such a manner that it can be used for both its intended function and general community functions, if appropriate, and shall be attractively landscaped.
- C. Notwithstanding the limitation of Section 205-5(D.), in the Mixed Use District more than one principal use may exist on a single parcel or tract of land.
- D. Lot area and related regulations for all uses in the Mixed-Use District.
- 1. Lot area, width, and depth. The lot area, width, and depth shall not be less than the following dimensions for each principal use hereafter established in this zone:
 - a. Lot area minimum: 20,000 square feet per use.
 - b. Lot width minimum: 80 feet.
 - c. Lot depth minimum: 150 feet.
 - 2. Setbacks for Residential Dwelling Structures (excluding multi-family dwellings) and Mixed Commercial/Residential Structures. Each lot shall provide front, side, and rear setbacks not less than the following:
 - a. Front yard: 15 feet.
 - b. Side yard: 7 feet.
 - c. Rear yard: 20 feet.
 - 3. Setbacks for Non-residential and multi-family residential structures:
 - a. Front yard: 35 feet.
 - b. Side yard: 15 feet.
 - c. Rear yard: 25 feet.
 - d. Distance between buildings on same lot or tract: 20 feet
 - 4. Height. The height limit for a building shall be 45 feet.

5. Lot coverage. Not more than 65% of the area shall be covered with impervious surface materials.
 6. Vegetative cover. At least 20% of the lot area shall be maintained in a vegetative cover.
- E. Any commercial or multiple occupancy use that includes a commercial component use which is adjacent to a residential district shall be screened along the adjacent property line as defined in this chapter. All new residential uses in the Mixed Use District shall be screened from adjacent lots, unless the adjacent lot is located in the R-1 or R-2 District.

Section 205-12.1 (INS) Institutional District.

A. Permitted Uses.

1. Commercial school.
2. University/college.
3. School (public/private).
4. Vocational school.
5. Community Center.
6. Museum.
7. Park, playground, and other non-commercial outdoor recreational use.
8. Library.
9. Essential services.
10. Hospital.
11. Urgent Care Facility.
12. Nursing Home.
13. Accessory uses including community garden.

B. Special Exceptions.

1. It shall be the responsibility of the applicant to adequately demonstrate to the Zoning Hearing Board that such special exception will be compatible with adjacent uses, neighborhood characteristics and the objectives of this chapter.
2. Bed and breakfast.
 - a. No more than four rental units shall be provided, and no more than four persons may occupy one rental unit.
 - b. At least one bathroom shall be provided for use by guests.

- c. There shall be no use of show windows or any type of display or advertising visible from outside the premises, except for a single nonilluminated sign no larger than two square feet in size.
- d. A preexisting residence shall retain a residential appearance and character.
- e. The use shall be operated only by persons who reside within the bed-and-breakfast and by a maximum of one nonresident employee.
- f. There shall be no separate cooking facilities in any guest room. Food shall only be served to guests who are staying overnight.
- g. The maximum, uninterrupted length of stay at a bed-and-breakfast shall be 14 days.
- h. The use of any amenities provided by the bed-and-breakfast, such as swimming pool or tennis court, shall be restricted in use to the guests and permanent residents of the establishment.
- i. A minimum of one off-street parking space shall be provided on the same lot for each rental unit.
- j. The bed-and-breakfast facilities may be used as the location for weddings up to five times a calendar year.

C. Lot area and related regulations for all uses in the Institutional District.

- 1. Lot area, width, and depth. The lot area, width, and depth shall not be less than the following dimensions for each principal use hereafter established in this zone:
 - a. Lot area minimum: 80,000 square feet.
 - b. Lot width minimum: 100 feet.
 - c. Lot depth: 150 feet.
- 2. Setbacks.
 - a. Front yard: 35 feet.
 - b. Side yard: 15 feet.
 - c. Rear yard: 25 feet.
 - d. Distance between buildings on same lot or tract: 30 feet.

3. Height. The height limit for a building shall be 60 feet.
4. Lot coverage. Not more than 70% of the lot shall be covered with impervious surface materials.
5. Vegetative cover. At least 20% of the lot shall be maintained in a vegetative cover.
6. Any use in the Institutional District shall be screened from adjacent properties as “screening” is defined in this chapter.

Article IV. Supplementary Regulations.

Section 205-13 Accessory buildings and structures.

- A. A private detached garage may be permitted as follows:
 1. Only one private detached garage may be permitted.
 2. A private detached garage shall not exceed one story or be more than 20 feet in height.
 3. A private detached garage may be located in any required side or rear yard.
 4. A private detached garage located in any required side or rear yard shall be set back a minimum of five feet from any side or rear yard.
- B. A building accessory to a residential principal building, other than a private detached garage, and not attached to the principal building (examples include workshops, storage/utility sheds and tool/garden sheds, playhouses and animal shelters), may be permitted as follows:
 1. Only one accessory building may be permitted.
 2. An accessory building shall not exceed one story or be more than 20 feet in height.
 3. An accessory building shall not exceed 240 square feet.
 4. An accessory building may be located in any required side or rear yard.
 5. An accessory building located in any required side or rear yard shall be set back a minimum of five feet from any side or rear lot line.
 6. Playhouses and animal shelters not exceeding 30 square feet shall not be subject to the provisions of Subsection B(1).
- C. Residential buildings sharing common walls.

1. Where residential principal buildings share common walls (examples include single-family attached dwelling or single-family semidetached dwelling), buildings accessory to the principal building, other than a private detached garage, and not attached to the principal building, may be permitted as follows:
 - a. Only one accessory building may be permitted.
 - b. An accessory building shall not exceed one story or be more than 20 feet in height.
 - c. An accessory building shall not exceed 240 square feet.
 - d. An accessory building may be located in a required side or rear yard.
 - e. A single accessory building located in a required side or rear yard shall be set back a minimum of five feet from any side or rear lot line.
 2. Accessory buildings, including private detached garages, may be located in pairs or groups on contiguous lots in the required side or rear yard along the common lot line; provided, however, they shall be constructed at the same time and shall be set back a minimum of five feet from the rear lot line.
- D. A building accessory to a nonresidential use, or use permitted in the Community Commercial District (CC), shall be set back a minimum of 10 feet from any side or rear lot line abutting a residential district or lot used for residential purposes.
- E. A building accessory and attached to the principal building shall comply in all respects with the requirements of this chapter applicable to the principal building.
- F. All buildings accessory to the principal building in the aggregate shall not occupy more than 30% of the area of the required rear and/or side yard.
- G. No part of a building accessory to the principal building shall be located closer to the street, on which the principal building fronts, than the front of the principal building.
- H. No building accessory to the principal building shall be erected on a corner lot in either required front yard.
- I. No building accessory to the principal building shall be inhabited.

J. Fences, walls and retaining walls.

1. Fences.

- a. Unless otherwise stated, fences are permitted uses in all districts, subject to the following:

(1) Fences may be located in the front, side, or rear yard.

(a) In the R-1, R-2, RM, CC, and MX districts:

(i) Fences located in the front yard shall not exceed four feet in height.

(ii) On a corner lot located in the R-1, R-2, RM, CC, and MX districts, the fence height shall be limited to four feet on both front yards.

(b) Barbed wire fences shall not be permitted in any district other than in the (I) Industrial and (HC) Highway Commercial districts. Barbed wire shall not be permitted in the front yard in any district other than the (I) Industrial District.

(c) Chain-link fences or a pattern similar (including but not limited to chicken wire, galvanized garden fencing, etc.) to that of a chain-link fence shall not be permitted in the front yard in any district other than the (I) Industrial and (HC) Highway Commercial districts. For any chain-link fences located in the (I) Industrial or (HC) Highway Commercial Districts, vegetative material of sufficient height and density on the exterior of the fence or chain-link fence privacy slats to conceal the chain-link fence from the view of the adjoining lots must be provided in conjunction with any chain-link fence which fronts upon a street or shares a lot line with any lot located in a district other than (I) Industrial and (HC) Highway Commercial. Any chain-link fence privacy slats shall not be cracked or broken.

(2) In the R-1, R-2, and RM districts, fences shall be limited to a maximum height of eight feet in side and rear yards; however, a fence of up to 10 feet in height may be constructed solely in the rear yard for the sole purpose of enclosing a

court for tennis, basketball, or other similar sport. In all other districts, fences shall have a maximum height of 10 feet.

- (3) In the CC, CC-II, HC, and I districts, businesses with garden centers and the permitted outdoor storage of inventory or materials which share one common wall with the principal use may erect a fence equal in height to the height of the common wall for the remaining three sides of the garden center or outdoor storage area.
 - (4) No fence shall be constructed in a location which interferes with the minimum sight distance required by the Pennsylvania Department of Transportation Publication 13M, Highway Design Manual, as amended and supplemented from time to time.
 - (5) No fence shall be located within a public access or public utility easement or right-of-way unless the applicant has written permission of the person who has been granted the public access or public utility easement. If the Borough or applicable utility needs access to the easement or right-of-way, the portion of fence obstructing the easement or right-of-way shall be removed by the property owner at their sole cost and expense.
 - (6) The finished or smooth side of the fence must face the exterior of the lot, so that any exposed posts, frames, or supports face the interior of the lot unless the fence is designed in a manner in which both sides are equally finished or smooth. Simply put, the "attractive" side of the fence must face outward.
 - (7) Any fence located in a front yard of a property without existing sidewalks may have to be removed or relocated at the property owner's sole cost and expense if sidewalks are required at the property.
- b. A fence shall not be required to comply with accessory structure setbacks and may be constructed on the applicant's side of the property line, subject to Subsection J(1)(c) below.
 - c. Any applicant for a zoning permit to construct a fence bears sole responsibility for the accurate representation of any property lines and in the event information presented by the applicant is incorrect, the applicant shall bear all liability for the correction of the error.

2. Walls.

a. Unless otherwise stated, walls are permitted uses in all districts, subject to the following:

(1) Walls may be located in the front, side, or rear yard.

(a) In the R-1, R-2, RM, CC and MX districts:

(i) Walls located in the front yard shall not exceed four feet in height and must be set back one foot from the property line for every foot or portion thereof of the wall's height, subject to Subsection J(2)(b) below. For example, if the proposed wall is 3 1/2 feet in height, it must be set back four feet from the front lot line. There shall be no required setback for walls in a side or rear yard.

(ii) On a corner lot in the R-1, R-2, RM, CC, and MX Districts, the wall height shall be limited to four feet on both front yards.

(b) Barbed wire shall not be permitted to be combined with walls in any district other than in the (I) Industrial and (HC) Highway Commercial districts. Barbed wire shall not be permitted in the front yard in any district other than the (I) Industrial District.

(2) Walls shall have a maximum height of six feet except in the (I) Industrial and (HC) Highway Commercial districts, where the maximum height shall be limited to eight feet.

(3) No wall shall be constructed in a location which interferes with the minimum sight distance required by the Pennsylvania Department of Transportation Publication 13M, Highway Design Manual, as amended and supplemented from time to time.

(4) No wall shall be located within a public access or public utility easement or right-of-way unless the applicant has written permission of the person who has been granted the public access or public utility easement. If the Borough or applicable utility needs access to the easement or right-of-way, the portion of wall

obstructing the easement or right-of-way shall be removed by the property owner at their sole cost and expense.

- (5) The exterior of all walls must be finished with brick, stone, or other decorative block or decorative concrete product and must be architecturally compatible with the primary use structure and surrounding landscape. Concrete masonry blocks (alone, painted, stained or treated) shall not be considered a "finished wall."
 - (6) The finished side of the wall must face the exterior of the lot, so that any exposed pillars, columns, or supports face the interior of the lot unless the wall is designed in a manner in which both sides are equally finished or smooth. Simply put, the "attractive" side of the wall must face outward.
 - (7) Any wall located in a front yard of a property without existing sidewalks may have to be removed or relocated at the property owner's sole cost and expense if sidewalks are required at the property.
- b. Any applicant for a zoning permit to construct a wall bears sole responsibility for the accurate representation of any property lines and in the event information presented by the applicant is incorrect, the applicant shall bear all liability for the correction of the error.

3. Retaining walls.

- a. Unless otherwise stated, retaining walls are permitted uses in all districts, subject to the following:
 - (1) Retaining walls may be located in the front, side, or rear yard.
 - (2) No retaining wall shall be constructed in a location which interferes with the minimum sight distance required by the Pennsylvania Department of Transportation Publication 13M, Highway Design Manual, as amended and supplemented from time to time.
 - (3) No retaining wall shall be located within a public access or public utility easement or right-of-way unless the applicant has written permission of the person who has been granted the public access or public utility easement. If the Borough or applicable utility needs access to the easement or right-of-way, the

portion of retaining wall obstructing the easement or right-of-way shall be removed by the property owner at their sole cost and expense.

(4) Retaining walls must be finished with brick, stone, or other decorative block or concrete product and must be architecturally compatible with the primary use structure and surrounding landscape.

- b. Retaining walls may be placed on the applicant's side of the property line, subject to Subsection J(3)(c) below.
- c. Any applicant for a zoning permit to construct a retaining wall bears sole responsibility for the accurate representation of any property lines and in the event information presented by the applicant is incorrect, the applicant shall bear all liability for the correction of the error. An applicant to construct a retaining wall bears sole responsibility to ensure that the proposed retaining wall is properly engineered and designed to serve the purpose for which it is intended.

Section 205-14 Accessory uses.

B. Customary home occupations including professional offices or studios are permitted as an accessory use subject to the following provisions:

- 1. Such use shall be located in a single dwelling unit or in a building accessory to the dwelling unit and provided those persons residing in said dwelling are involved in the home occupation and not more than two other persons.
- 2. Such use shall not display or create any exterior evidence of the home occupation other than one unanimated, nonilluminated flat sign having an area of not more than four square feet.
- 3. Only one customary home occupation shall be permitted in conjunction with a single-family dwelling.
- 4. Prior to the establishment of each and every customary home occupation after the effective date of this chapter, it shall be incumbent upon the owner to adequately document to the Borough Zoning Officer the kind, location and magnitude of such customary home occupation and obtain a certificate of occupancy.
- 5. Where off-street parking spaces are required for the principal use, two additional parking spaces shall be provided for the customary home occupation.

6. The occupation is secondary and incidental to the principal residential use.
- C. Private outdoor swimming pools shall be permitted as an accessory use subject to the following:
1. Such pool may be erected in the required rear yard but not in the required side or front yard.
 2. The edge of such pool shall not be located closer than 15 feet to any lot line.
 3. Any such pool with a surface area of 150 feet or more, or a depth in excess of two feet, shall be completely surrounded by a fence or wall that is not less than four feet in height. All gates or doors opening through said fence shall be erected, maintained and provided with a self-closing, self-locking gate to prevent unauthorized use of the pool and to prevent accidents. However, if said pool is located more than 3 1/2 feet above the ground level, then a fence is not required provided that all points of access to said pool are adequately protected by a self closing, self-locking gate.
 4. A building permit and certificate of occupancy shall be required for swimming pools.

Section 205-15 Height Regulations.

- A. Where a lot has frontage on two or more streets or other public rights-of-way, the limitation shall apply only as measured from the curb level along the street or way with a higher elevation above sea level.
- B. Chimneys, flues, towers, spires, cupola domes, pole masts, and antennas shall be exempt from the height limitations of this chapter.

Section 205-16 Yard and Lot Regulations.

- A. On corner lots.
 1. Front yards are required on both streets' frontages, and one yard other than the front yard shall be deemed to be a rear yard, and other (or others) side yards.
 2. No obstructions to vision in any district shall be erected or maintained within the line of sight of intersecting streets.
- B. Front yard exception. No proposed principal or accessory building need have a setback greater than the average of the existing dwellings located within 50 feet on each side of the

adjacent lot line of the proposed structure, in the same side of the street, within the same block, and the same district.

- C. Projections into required yards. Open patios may be located in side and rear yards provided, if located closer than 10 feet to any adjacent property line, they shall be screened in accordance with the provisions of this chapter.
- D. Existing small lots. A lot owned individually and separately and separated in ownership from any adjoining tracts of land on the effective date of this chapter, which has a total lot area or dimension(s) less than prescribed in this chapter, may be used, provided such lot shall be developed in conformity with all applicable district regulations other than the minimum lot area and setback requirements. Existing small lots meeting the above stipulations shall comply with the following:
 - 1. Side yard shall be minimum of five feet.
 - 2. Rear yard shall be a minimum of 10 feet.
 - 3. Front yard shall be in accordance with Subsection B, if applicable, and, otherwise, shall be a minimum of 10 feet.
- E. Through lots. Where a lot extends through from street to street, the applicable front yard regulation shall apply on both street frontages. However, in the event of a complete system of through lots which are designed for reversed frontage, the front yard need only be along the more minor street of the subdivision.
- F. Waiver of yards. No side yard or rear yard shall be required for commercial or industrial uses when such yard abuts an operating railroad right-of-way.

Section 205-17 Parking Regulations.

- A. Parking requirements. Accessory off-street parking spaces shall be provided in accordance with the table set forth below and elsewhere in this chapter.

Single-Family Detached Dwelling	2 per dwelling unit
Single-Family semidetached dwellings	2 per dwelling unit
Two-family detached dwellings	4
Attached dwelling residences	2 per dwelling unit

Multiple dwelling residences	2 per dwelling unit
Multiple occupancy buildings	2 per dwelling unit and 1 space for each 200 sq. ft. of floor area ¹
Detached Commercial buildings	1 space for each 200 sq. ft. of floor area ²
Detached Industrial buildings	1 space for each employee on maximum shift

In the (CC) Community Commercial District off street parking spaces are not required, but are encouraged.

In the (MX) Mixed Use District, all parking must be on the interior of the lot, with all structures fronting on adjacent streets. On corner lots, parking may be located on interior side yards, provided that screening of at least 10 feet in width separates the street from the parking area (not including sidewalks).

Shared Parking

In the Mixed Use District, multifamily dwellings and Detached Commercial Uses may share parking spaces to meet the requirements of this Section, with the total parking requirement being reduced by 35% provided that: 1) the uses are located on the same lot and 2) the commercial uses do not have hours of operation between 9 p.m. and 7 a.m.

¹ Hotels or motels which only have overnight guest rooms and administrative offices for the operation of the hotel or motel shall only be required to provide one off-street parking space for each overnight guest room and one off-street parking space for each employee

² Id.

Commercial Residential uses.

In the Mixed Use District, Mixed Commercial / Residential uses may share parking spaces to meet the requirements of this Section, with the total parking requirement being reduced by 35% of the total parking requirement.

Shopping Center

A minimum of five parking spaces for every 1,000 square feet of merchandising or sales area designed for tenant occupancy.

Uses not specifically addressed

In the event that a use is not specifically addressed in this Section, the Zoning Officer shall determine what enumerated use and parking requirement is more analogous to the proposed use, and use the respective parking requirement for the proposed use.

- B. Areas computed as parking spaces. Areas which may be computed as open or enclosed off-street parking spaces include any private garage, carport or other area available for parking, other than a street or driveway. However, a driveway within a required front yard for a one-family or two-family residence may count as two parking spaces.
- C. Size of spaces. Minimum parking stall width shall be nine feet; length shall be 18 feet. All parking aisles shall have a minimum width of 25 feet for ninety-degree parking, and a minimum width of 20 feet for two-way angle parking. One-way angle parking shall have a minimum aisle width of 15 feet.
- D. Circulation. All dead-end parking lots shall be designed to provide sufficient backup area for the end stalls. Parking areas shall be designed so that each vehicle may proceed without requiring the moving of any other vehicle. In no case shall commercial parking areas be designed to require or encourage vehicles to back onto a public street.
- F. Access. Unobstructed access to and from a street or alley shall be provided. The width of entrance or exit drives shall be a minimum of 15 feet for one-way use only and a minimum of 25 feet for two-way use. No entrance or exit for any multiple dwelling, commercial or industrial parking area shall be located within 50 feet of any street intersection.
 - 1. In determining distance from any street intersection under this subsection, the relevant measurement shall be taken from the center of said street intersection.
- G. Drainage and surfacing. All parking areas shall be surfaced with an asphaltic or Portland cement or similar durable and dustless surface and shall be so graded and drained to dispose of all surface water anticipated within the area. Surface materials shall be subject to Borough approval.

H. Screening and Setbacks of Parking Areas.

1. For multifamily, industrial uses, and any use in the Highway Commercial District, no parking area shall be closer than 10 feet to the multiple dwelling, industrial building, or Highway Commercial principle structure, or to the side or rear lot line of the lot on which the respective use is situated.
2. For Mixed Commercial / Residential structures in the Mixed Use District (MX) parking areas shall not be closer than 5 feet to the Mixed Commercial / Residential structure.
3. For multifamily, industrial uses, any use in the Highway Commercial District, and any use in the Mixed Use District, the parking shall be screened from adjoining lots with a minimum five foot planting strip.
4. Parking areas shall be physically separated from any public right-of-way by a minimum of a five foot planting strip (certain districts may have more stringent screening requirements which are applicable) and in no case shall parking areas be designed to require or encourage vehicles to back into the public street.

- I. Location. Parking areas planned and designed to serve a permitted use shall be located in the same district as the permitted use. Ingress and egress for a parking area shall also be located in the same district as the permitted principal use which it serves.

J. PARKING, STORAGE OR USE OF RECREATIONAL VEHICLES

1. Not more than one recreational vehicle may be parked or stored on any lot in any residential or in the community commercial district at any time and such recreational vehicle may Only be parked or stored in a permitted carport or enclosed building, in the rear yard (excluding any applicable rear yard setback lines), in a side yard, provided that the recreational vehicle does not extend into the front yard further than the front of the primary structure and shall not be within the applicable side yard setback, and from May 1 through September 30, said recreational vehicle may be parked anywhere on the lot Only for a period not to exceed three consecutive days (72 hours) within a calendar week.
2. No recreational vehicle shall be parked or stored on a public street or highway for any period exceeding 24 hours.
3. No recreational vehicle shall be used for purposes of living, sleeping, human habitation or housekeeping purposes at any time regardless of where parked or stored; provided, however, that a recreational vehicle owner by visitors of the residents of the dwelling situate on the residential lot may park and use the recreational vehicle for living and sleeping purposes as follows:
 - (a) The visitor's recreational vehicle shall be parked on the residential lot.
 - (b) Any singular period of such use shall not exceed seven consecutive calendar days.
 - (c) The combination of all periods of such use shall not exceed a total of 14 calendar days per year.

Section 205-18 Off-Street Loading Requirements.

Off-street loading berths open or enclosed shall be permitted as an accessory use to commercial and industrial principal uses subject to the following minimum provisions:

- A. Size of spaces. Each loading berth shall be at least 12 feet wide, 33 feet long, and 14 feet high.
- B. Paved surface. Each off-street loading berth shall be paved.
- C. Location and access. Unobstructed access, at least 15 feet wide, to and from a street shall be provided. Such access may be combined with access to a parking lot. All permitted or required loading berths shall be on the same lot and same district as the use to which they are accessory. No entrance or exit for any off-street loading area shall be located within 50 feet of any street intersection. No off-street loading berth shall be located in any front yard or within 10 feet of any side or rear yard which adjoins a residential district boundary or existing residential use.

Section 205-19 Sign Regulations.

Signs may be erected and maintained only when in compliance with the following provisions:

- A. General regulations applying to all signs.
 - 1. Signs must be constructed of durable materials, maintained in good condition, and not allowed to become dilapidated.
 - 2. Signs shall not be placed in such a position that they will cause danger to traffic on a street by obscuring the view.
 - 3. No sign, except for a scoreboard permitted electronic message center, shall be permitted which rotates and/or causes interruption or flashing of light. Any illuminated sign shall be illuminated with a steady, stationary, and shielded light directed solely onto the sign without causing glare so that only the illumination of the sign, rather than the source of lights, is visible.
 - 4. Abandoned or outdated signs. Signs advertising a use no longer in existence shall be removed within 30 days of the cessation of such use. If the owner of a property does not remove such sign within 30 days after receiving a written notice from the Zoning Officer, the sign may be removed by the Borough at the expense of the property owner.

5. Billboards or similar outdoor advertising signs, except scoreboards, which advertise products or businesses not connected with the site or building shall comply with the requirements of § 205-20 of this chapter.
 6. Signs placed on the roof of a building shall be prohibited except in the (HC) Highway Commercial and (I) Industrial districts. No sign shall be attached to a utility pole, except by a utility or government agency. No sign shall be attached to a tree or governmental- or municipal-owned infrastructure to include but not be limited to: stop signs, yield signs, etc. The police officers of the Borough of Greencastle, the Zoning Officer, his/her designee, or the owner of the utility pole or tree shall have the authority to remove and dispose of signs attached to a utility pole or tree in the public right-of-way, or governmental-, or municipal-owned infrastructure to include but not be limited to: stop signs, yield signs, etc.
 7. Signs erected in violation of these provisions shall be removed upon written notice of the Borough. Failure to remove such signs shall constitute a violation of this chapter, and in addition to the penalties contained herein, the Borough will charge the owner for the cost of Borough removal of such signs.
 8. Signs or displays visible from a lot line that include any explicit sexual materials, as defined by 18 Pa.C.S.A. § 5903, as amended, shall be prohibited.
 9. Signs shall be prohibited that are of such character, form, shape or color that they imitate or resemble any official traffic sign, signal or device or that have any characteristics which are likely to confuse or distract the operator of a motor vehicle on a public street (such as the prominent use of the word "danger").
- B. Signs permitted in all districts. The following signs shall be permitted in all districts without the necessity to obtain a permit from the Borough:
1. Real estate signs announcing the sale or rental of the property where located.
 2. Civic and religious signs or bulletin boards not exceeding 20 square feet.
 3. Construction signs announcing the architect, engineer and/or contractor(s) placed upon the property only during the duration of construction activity and not exceeding 32 square feet.
- C. Signs permitted in the R-1 and R-2 Districts.
1. Customary home occupation signs, which shall be unanimated and nonilluminated and shall not exceed an area of four square feet.

2. Residential development signs not exceeding an area of 32 square feet and providing only one such sign shall be permitted for each accessway into the residential development.
3. Signs used as accessory to a special exception not exceeding 20 square feet in area and providing only one such sign shall be permitted for each special exception.

D. Signs permitted in (CC) Community Commercial Districts.

1. Only one sign for each street frontage shall be permitted for each commercial use, except that awning signs shall also be permitted, provided that the awning sign does not exceed 50% of the face of the awning.
2. Hereafter, signs may project beyond the property line abutting a street, providing the overhanging sign is not less than eight feet above the sidewalk and at least three feet horizontal from the curbline. Overhanging signs shall not project over the cartway of any street or alley.
3. No sign shall exceed an area of 20 square feet for commercial uses with up to 75 feet of street frontage, and no sign shall exceed an area of 32 square feet for commercial uses with over 75 feet of street frontage.
4. No sign shall be placed so that its height measured from the base of the building where located exceeds 20 feet.
5. Sandwich board signs shall be permitted subject to the following:
 - a. Sign is not in a location that would interfere with pedestrian traffic, emergency access or parking spaces and retains a five-foot-wide minimum clearance path for pedestrians, and such sign is kept as close to the building's facade as feasible.
 - b. A sandwich board may only be displayed during business hours, and said sandwich board sign must be removed at the close of business each day. A sandwich board sign must be stored inside a building or structure during non-business hours.
 - c. Any sandwich board sign must be no greater than four feet in height and three feet in width per side.
 - d. Only one sandwich board sign is permitted per business or entity, except any business or entity that faces two public streets or rights-of-way is permitted to have one sandwich board sign located on each public street or right-of-way

located immediately adjacent to the business or entity. In no event shall a business or entity be permitted to have more than two sandwich board signs.

- e. The owner of a sandwich board sign shall place and locate a sandwich board sign in a manner that will not cause any damage to any person and/or property. The owner of a sandwich board sign assumes any and all liabilities associated with and/or related to said sandwich board sign, indirectly and/or directly, including but not limited to any damage to person and/or property. By placing a sandwich board sign in the Borough, the owner of such sandwich board sign agrees to indemnify the Borough of Greencastle from any and all damages, claims, costs and/or expenses associated with any damage to any person and/or property, caused by and/or related to, indirectly and/or directly, a sandwich board sign.

E. Signs permitted in (HC) Highway Commercial, (I) Industrial and (MX) Mixed Use Districts.

1. Business identification signs shall be permitted subject to the following:

a. Specific district requirements.

(1) In the (I) Industrial, (MX) Mixed Use and (HC) Highway Commercial districts, not more than one sign attached to and parallel with the premises facing each street shall be permitted. The size of such sign shall not exceed 96 square feet or 10% of the surface area of the front of the building, whichever is greater.

(2) In the (HC) Highway Commercial District and (MX) Mixed Use District:

(a) In the (HC) Highway Commercial District, for a single use housed in a single building with at least 500 lineal feet of frontage upon a street, no more than:

(i) Two business identification signs attached to and parallel with the premises facing each street shall be permitted not to exceed 96 square feet each; and

a. Additional service identification signs, provided that the total signage of the two business identification signs and the service identifications signs together do not exceed 5% of the surface area of the front of the building.

(b) For any other use (single uses with less than 500 lineal feet of frontage or any multiple use lot, not including shopping centers), in the (HC) Highway Commercial or (MX) Mixed Use Zones, not more than one sign attached to and parallel with the premises

facing each street shall be permitted. The size of such sign shall not exceed 96 square feet or 10% of the surface area in total of the surface area of the front of the building.

- b. Additionally, not more than one freestanding sign shall be permitted for each street frontage of 100 feet, and an additional freestanding sign shall be permitted for each additional 100 feet of frontage or fraction thereof. The size of such sign shall not exceed 96 square feet nor exceed the height limitation of 25 feet. If the permitted freestanding sign area is not used, such sign area may be added to the permitted wall sign area; provided, however, that the wall sign shall not exceed 10% of the surface area of the front of the building. An auto service station may also include an additional 24 square feet of sign area to display fuel prices.
 - c. No sign shall be located in the established right-of-way of any street.
 - d. Additionally, awning signs shall be permitted, provided that the awning sign does not exceed 50% of the face of the awning and provided that awning signs for uses subject to Subsection E(1)(a)[2] shall be included in calculating the total signage for the use, which shall not exceed 5% of the surface area of the front of the building.
2. Signs located in shopping centers shall be subject to the following:
- a. There shall be only one freestanding sign per road frontage which shall be designed and used for the purpose of announcing the shopping center. Such sign shall not exceed 96 square feet nor exceed a height limitation of 25 feet.
 - b. Individual tenant business identification signs shall not exceed 96 square feet and in total (all tenant business identification signs in the shopping center) shall not exceed 10% of the surface area of the front of the building.
3. Sandwich board signs shall be permitted in the (MX) Mixed Use and (HC) Highway Commercial Districts, and not in the (I) Industrial District, subject to the following:
- a. A sandwich board sign must be located at either the facade of the building where the business or entity is located or at the curb immediately adjacent to the building where the business or entity is located and in a manner that said sandwich board sign is not intruding into any state right-of-way; provided, however, that said sandwich board sign must be located in a manner that it provides at least five feet of unobstructed clearance for pedestrians to use any sidewalk or other walkway in the Borough of Greencastle and must not obstruct the view of any individual operating a motor vehicle within the Borough of Greencastle.
 - b. A sandwich board may only be displayed during business hours, and said sandwich board sign must be removed at the close of business each day. A sandwich board sign must be stored inside a building or structure during non-business hours.

- c. Any sandwich board sign must be no greater than four feet in height and three feet in width per side.
 - d. Only one sandwich board sign is permitted per business or entity, except any business or entity that faces two public streets or rights-of-way is permitted to have one sandwich board sign located on each public street or right-of-way located immediately adjacent to the business or entity. In no event shall a business or entity be permitted to have more than two sandwich board signs.
 - e. The owner of a sandwich board sign shall place and locate a sandwich board sign in a manner that will not cause any damage to any person and/or property. The owner of a sandwich board sign assumes any and all liabilities associated with and/or related to said sandwich board sign, indirectly and/or directly, including but not limited to any damage to person and/or property. By placing a sandwich board sign in the Borough, the owner of such sandwich board sign agrees to indemnify the Borough of Greencastle from any and all damages, claims, costs and/or expenses associated with any damage to any person and/or property, caused by and/or related to, indirectly and/or directly, a sandwich board sign.
- F. Information kiosk signs are permitted in the (CC) Community Commercial, (MX) Mixed Use, (INS) Institutional and (HC) Highway Commercial Districts.
- G. Electronic message center signs are permitted in the (HC) Highway Commercial District.
- H. Signs permitted in all districts. The following sign shall be permitted in all districts:
- 1. Scoreboard in compliance with Subsection J below.
- I. Permit requirements. All signs, with the exception of those signs specifically identified in Subsection B, and signs placed in the windows of permitted commercial uses are subject to Borough permit requirements prior to installation or erection.
- J. Scoreboard requirements. All signs which are determined to be a scoreboard shall meet the following regulations:
- 1. Size. Such signs shall have a total maximum size area of 500 square feet with a maximum height off the ground of eight feet.
 - 2. Primary purpose. The primary purpose of such signs shall be to transmit the time and/or score and/or other relevant information regarding such athletic information or any other event taking place to the spectators at the event.

3. Accessory use. Such signs shall be permitted to have an accessory use of advertising for off-premises business and/or entities; provided, however, that such accessory use shall be limited to 25% of the total sign area.
 4. Sign illumination. Such sign shall be permitted to externally illuminate by electricity, gas or other artificial light, including reflective or phosphorescent light; provided, however, that any illumination shall include lighting devices such as any light, string of lights, or group of lights located or arranged so as to cast illumination on a sign.
- K. Nonconforming signs. Every sign in existence at the time this article becomes effective, which does not conform with the provisions herein, shall be removed, altered, or replaced so as to conform with this article after any change of use of the property upon which the sign is erected, upon the change of the name of any business for which the sign is erected, or upon replacement or alteration of the existing nonconforming sign.

Section 205-20 Outdoor Advertising Signs.

Outdoor advertising signs may be authorized by special exception upon a finding that compliance with the requirements of this Chapter, as well as the following specific criteria, have been established by the applicant:

- A. The submission by the applicant of a site development plan, which shall contain the information, maps, plans and narrative and graphic materials set forth in the Subdivision and Land Development Ordinance and this chapter, for the Borough of Greencastle.
- B. All lots upon which outdoor advertising signs are to be located must conform to the area requirements of the Highway Commercial Zoning District and be located entirely within that zoning district and, in addition, have frontage on U.S. Route 11 within the Borough.
- C. The leased portion of any lot upon which the outdoor advertising is to be located shall contain a minimum of 5,000 square feet in area.
- D. The total area of an outdoor advertising sign face shall be a maximum of 300 square feet, and all portions of any display shall fit within such area with no extensions beyond the edge of the outdoor advertising sign's framework. Only one sign face, not exceeding 300 square feet in face area, may be attached or constructed on each side of a sign.
- E. V-shaped billboard and advertising sign structures supported by a single structure shall be permitted, provided that the angle formed by the two sides of the advertising sign structure does not exceed 30°.
- F. All utility lines serving the outdoor advertising sign, or those extended to provide such service, must be installed completely underground. Such requirement may be waived if the

outdoor advertising sign is powered by nontraditional alternative energy sources (for example, solar power).

G. All outdoor advertising signs shall be set back from the below described items as follows:

1. From a roadway intersection: 500 feet.
2. From any other outdoor advertising sign, whether such sign is located in the Borough of Greencastle or otherwise, on the same side of the roadway: 1,000 feet.
3. From any other outdoor advertising sign, whether such sign is located in the Borough of Greencastle or otherwise, on the opposite side of the roadway: 600 feet.
4. From the street right-of-way: 50 feet.

H. The maximum height of outdoor advertising signs shall not exceed 25 feet, as measured from the grade of the roadway from which the advertising message is principally visible, and the bottom edge of the outdoor advertising sign shall be no more than eight feet above the elevation of the adjacent roadway, which height shall be sufficient to prevent unauthorized access upon the outdoor advertising sign.

I. A buffer yard shall be required between outdoor advertising signs and any adjacent lot(s). Such buffer yard shall be a minimum of 40 feet.

J. The land area utilized for an outdoor advertising sign shall not be otherwise required to support another underlying use upon such lot, including but not limited to buffer yard, parking area or setback necessary to any preexisting use upon such lot.

K. All displays on the face of outdoor advertising signs shall be stationary. Animated, sequential, flashing, moving, rotating, revolving, or oscillating or otherwise nonstationary signs or displays shall be prohibited.

L. Except as otherwise specifically provided within this subsection, illumination of outdoor advertising signs shall comply with the requirements of § 205-21.

M. Illumination of the display shall be designed so that it shall be focused on the face of the display itself, so as to prevent glare upon the surrounding area. All sources of illumination shall be external and equipped with shields to prevent spillage of light off the display.

N. Except as otherwise may be specified herein, all development of outdoor advertising signs shall comply with the land development standards contained in the Borough of Greencastle Subdivision and Land Development Ordinance and this Chapter

O. Outdoor advertising signs, including any and all supporting structures thereof, shall be dismantled and removed from the premises upon which they are located within 180 days of the cessation of use.

- P. Outdoor advertising signs shall be constructed to all applicable structural standards for such devices, and all applications for the special exception approval shall verify compliance with such standards as documented and sealed by a registered engineer.
- Q. Outdoor advertising signs shall be maintained by their owner in a state of repair so that they are as safe and as functional as when originally installed.
- R. No outdoor advertising sign shall be constructed or erected until an applicant thereof has made an application for same, which shall include a copy of a written lease for use of the land if the applicant is not the owner thereof, and paid the applicable fee thereof, as set by separate ordinance or resolution of the Borough of Greencastle, and received a permit thereof from the Borough.
- S. Billboard signs shall be permitted only if the provisions of the Outdoor Advertising Control Act of 1971, Act 160, 36 P.S. § 2718.101 et seq., have been met.
- T. Before any outdoor advertising signs are erected, the appropriate state and/or federal permits that are required for the erection of a billboard shall be obtained and copies of the same shall be filed at the Borough Office prior to issuance of a signed permit by the Borough.

Section 205-21 Lighting Requirements.

The following standards shall apply to the design and operation of outdoor lighting (for example, artificial illuminating devices, installed or portable, used for floodlighting or general illumination, or security) for multifamily dwellings, commercial uses, all uses permitted in the Mixed Use District, all uses permitted in the Institutional District, and industrial uses:

- A. Light fixtures or lamps shall be shielded in such manner as to direct all light toward the earth's surface and away from reflective surfaces.
- B. Light fixtures or lamps shall be shielded in such manner as to direct incident rays away from all adjacent property.
- C. Light fixtures or lamps on poles shall not exceed the height of the building whose area they illuminate, or 15 feet, whichever is less.
- D. Light fixtures or lamps shall not shine toward any street, adjacent residential district, residential use or into the night sky.
- E. Light-emitting surfaces of light fixtures or lamps shall not be visible when viewed from the ground, from any public right-of-way, or adjacent residential district or residential use.

Section 205-22 Screening Requirements.

A. Applicability. All lots or parts of lots which are improved with a predominantly nonresidential use and whose side or rear lines are adjacent to a residential district shall be screened from such residential district by landscaped buffer strips. (A residential district that shares a district boundary line which is a street or alley centerline shall be considered an adjacent district.) Screening may be required by other sections of this Ordinance or pursuant to conditions imposed by the Borough Council and Zoning Hearing Board during conditional use or special exception hearings. A screen shall also be required where a lot for a non-residential use has side or rear lot lines adjacent to a residential use not in a residential district.

B. General regulations

1. Within required vegetative 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.
2. The entire vegetative buffer strip shall be at least eight (8) feet in width and shall be graded and planted with grass seed or sod and such other shrubbery or trees as may be desired by the owner.
3. A Zoning Occupancy Permit for a use on the premises shall not be issued until such time as the landscaping requirements, vegetative buffer strips and/or other approved screen as required by this Ordinance are installed.
4. In required vegetative buffer areas where a natural buffer strip is considered to be impracticable or inappropriate, an opaque fence may be substituted in whole or in part for a natural buffer provided its specifications are approved by the Zoning Hearing Board. Such fence shall be maintained as required by this Ordinance and any other applicable Property Maintenance Code or Building Code provision.
5. In circumstances where it is impractical for a screen to meet all the requirements of this Section or would create an undue hardship, the Zoning Hearing Board may approve acceptable alternatives which shall satisfy the spirit, objectives and intent of the screen requirements.

Article V. Nonconforming Uses and Buildings.

Section 205-23 Definitions and use provisions.

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

Nonconforming Structure

A structure or building or part thereof manifestly not designed to comply with the applicable use provisions contained in this chapter or its subsequent amendment where such structure lawfully existed prior to the enactment of this chapter or amendment. Such nonconforming structures include, but are not limited to, nonconforming signs.

Nonconforming Use

A use, whether of land or of structure, or both, which does not comply with the applicable use provisions of this chapter or its subsequent amendments, where such use was lawfully in existence prior to the enactment of this chapter or amendment.

- B. Use provisions. Any nonconforming use of land or structure or combination thereof may be continued subject to the following:
 - 1. Shall not be moved to another location where such use would be nonconforming.
 - 2. Shall not be changed to another nonconforming use without special exception approval by the Zoning Hearing Board in accordance with Section 205-23 herein.
 - 3. Shall not be reestablished unless in accordance with Section 205-24, if such use has been discontinued for a period of one year or more.

Section 205-24 Expansion and change of nonconforming uses.

- A. Procedure. Any nonconforming use of structure or land or combination thereof may be expanded or changed only upon approval of the Zoning Hearing Board after a special use hearing as defined elsewhere in this chapter.
- B. Procedure. Any nonconforming use of structure or land or combination thereof may be expanded or changed only upon approval of the Zoning Hearing Board after a special use hearing as defined elsewhere in this chapter
 - 1. It shall be the responsibility of the applicant to sufficiently document to the Zoning Hearing Board that the proposed expansion or change will not be contrary to the purposes of this chapter and the public health, safety, and welfare of municipal residents, in general, and of the residents of the immediate area, in particular.
 - 2. That such expansion or change is not extended beyond the lot lines existing on the date of this chapter or its subsequent amendments were adopted.
 - 3. That such expansion or change shall comply with the applicable yard and setback requirements of the district where located.
 - 4. Any person seeking permission to change a nonconforming use to any other nonconforming use, shall sufficiently document to the Zoning Hearing Board that such new nonconforming use is more in compliance with the applicable provisions of this chapter than the present nonconforming use.

5. The Zoning Hearing Board may attach additional provisions to the granting of a special use permit or expand or change a nonconforming use for the purpose of promoting the objectives and intent of this chapter.

Section 205-25 Discontinuance.

Any person desiring to temporarily discontinue a nonconforming use may do so, and may resume the same use within one year after such discontinuance, provided such person has notified the Borough in writing of his intention to do so within 30 days after the use is discontinued. A discontinued use will not be deemed to be resumed unless such use is operated on a regular basis for six months after such resumption begins.

Section 205-26 Repairs and maintenance.

Notwithstanding any of the above regulations, nothing in this article shall be deemed to prevent normal maintenance and repair of any nonconforming use or structure.

Section 205-27 Registration of nonconforming uses.

The Borough Zoning Officer shall identify and register all lawful uses existing at the effective date of this chapter which do not conform to the requirements set forth in this chapter, or any amendments thereto. Such registration shall be carried out within 90 days of the effective date of this chapter, or any amendments thereto.

Article VI. Enforcement.

Section 205-28 Appointment and powers of Zoning Officer.

- A. For the administration of this chapter, a Zoning Officer, who shall not hold any elective office in the Borough, shall be appointed.
- B. The Zoning Officer shall meet the qualifications established by the Borough and shall be able to demonstrate to the satisfaction of the Borough a working knowledge of municipal zoning.
- C. The Zoning Officer shall administer this chapter in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to this chapter.
- D. The Zoning Officer is hereby authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of his employment.
- E. The Zoning Officer or his duly authorized assistant(s) shall have the right to enter any building or enter upon any land at any reasonable hour as necessary in the execution of their duties, provided that:

1. The Zoning Officer shall notify the owner and tenant before conducting any inspection.
 2. The Zoning Officer or his duly authorized assistant(s) shall display identification signed by the Borough Council upon commencing an inspection.
 3. Inspections shall be commenced in the presence of the owner or his representative or tenant.
- F. The Zoning Officer shall maintain files, open to the public, of all applications for certificates of occupancy and building permits along with plans submitted therewith as well as final certificates and permits.
- G. The Zoning Officer shall also maintain records, open to the public, of every complaint of a violation of the provisions of this chapter as well as action taken as a result of such complaints.
- H. The Zoning Officer shall submit to the Borough Council, for insertion in the Council's minutes, a written report summarizing for the month all building permits and certificates of occupancy issued by him as well as complaints of violations and action taken as a result of such complaints.

Section 205-29 Zoning Permits.

No building in any district shall be erected, reconstructed or restored, or structurally altered, without a zoning permit duly issued upon application to the Borough. No zoning permit shall be issued unless the proposed construction or use is in full conformity with all the provisions of this chapter. Any zoning permit issued in violation of the provisions of this chapter shall be null and void and of no effect, without the necessity for any proceedings or revocations or nullification thereof; and any work undertaken or use established pursuant to any such permit shall be unlawful.

- A. The Zoning Officer or his duly authorized assistant(s) shall have the right to enter any building or enter upon any land at any reasonable hour in order to inspect the construction or use as part of the Zoning Officer's duty to determine conformity with the provisions of this Section.
- B. No zoning permit shall be issued for the construction or alteration of any building upon a lot without the required minimum lot width on an ordained public street or highway.
- C. No zoning permit shall be issued for a building to be used for any variance or for any special exception in any district where such use is allowed only by approval of the applicable Borough agency unless and until such approval has been duly granted.

- D. The Borough shall, within 10 days after the filing of a complete and properly prepared application, either issue or deny a building permit. If a zoning permit is denied, the Borough shall state in writing to the applicant the reasons for such denial.
- E. Every zoning permit shall expire if the work authorized has not commenced within three months after the date of issuance, or has not been completed within 18 months from such date for construction costing less than \$1,000,000 and has not been completed within 36 months from such date for construction costing in excess of such amount. If no zoning amendments or other codes or regulations affecting subject property have been enacted in the interim, the Borough may authorize in writing the extension of either above periods of an additional six months, following which no further work is to be undertaken without a new building permit.
- F. As soon as the foundation of a building or of any addition to an existing building is laid off, and before first story framing or wall construction is begun, there shall be filed with the Borough an accurate survey signed by the person responsible for said survey, showing the exact location of such foundation with respect to the street and property lines of the lot.

Section 205-30 Certificate of Zoning Occupancy.

- A. The following shall be unlawful until a certificate of zoning occupancy shall have been applied for and issued by the Borough:
 - 1. Occupancy and use of a building erected, reconstructed, restored, structurally altered, moved, or any change in use of an existing building.
 - 2. Occupancy, use or any change in the use of any land.
 - 3. Any change in the use of nonconforming uses.
- B. No certificate of zoning occupancy shall be issued for any special exception of a building or of land requiring special exception approval by the Zoning Hearing Board or for any land or use requiring site development plan approval by the Commission unless and until such special exception or site development plan approval has been duly granted. Every certificate of occupancy for which special exception or site development plan approval has been granted or in connection with which a variance has been granted by the Zoning Hearing Board shall contain a detailed statement of any condition to which the same is subject.
- C. On a form furnished by the Borough, application for a certificate of occupancy for a new building, or for an existing building which has been altered, shall be made after the erection of such building or part thereof has been completed in conformity with the provisions of this chapter and in the case of a new building shall be accompanied by an accurate plot plan or, if not available, by a survey prepared by a licensed land surveyor or, engineer showing the location of all buildings as built.

- D. If the proposed use is in conformity with the provisions of this chapter and of all other applicable codes and ordinances, a certificate of occupancy for the use of vacant land or for a change of use by a nonconforming use, shall be issued by the Borough within 15 days after receipt of a properly completed application. If a certificate of occupancy is denied, the Borough shall state the reasons in writing to the applicant.
- E. A certificate of occupancy shall be deemed to authorize, and is required for both initial occupancy and the continuance of occupancy and use of the building or land to which it applies.
- F. Upon written request by the owner, and upon fee payment, the Borough shall, after inspection, issue a certificate of occupancy for any building or use thereof or of land existing at the time of the adoption of this chapter, certifying such use and whether or not the same and the building conforms to the provisions of this chapter.
- G. A record of all certificates of occupancy shall be kept by the Borough and copies shall be furnished, on request, to any agency of the Borough or to any persons having a proprietary or tenancy interest in the building or land affected.

Section 205-31 Zoning Permits within a floodplain.

- A. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants shall demonstrate compliance with all provisions of the Floodplain Management Ordinance, as amended from time to time, and with the requirements listed below.
- B. Duties and Responsibilities of Floodplain Administrator: The Zoning Officer of the Borough of Greencastle is hereby appointed to administer and enforce this ordinance and is referred to herein as the Floodplain Administrator.
 - 1. The Floodplain Administrator shall issue a zoning permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
 - 2. Prior to the issuance of any zoning permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No zoning permit shall be issued until this determination has been made.

3. In the case of existing structures, prior to the issuance of any Development/Permit, the Floodplain Administrator shall review the history of repairs to the subject building, so that any repetitive loss issues can be addressed before the permit is issued.
 4. During the construction period, the Floodplain Administrator or other authorized official may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she may make as many inspections during and upon completion of the work as are necessary.
 5. In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this ordinance.
 6. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator may revoke the zoning permit and report such fact to the Borough Council for whatever action it considers necessary.
- C. An application for a zoning permit for construction or development within a floodplain shall be subject to the following review criteria:
1. Issuance of Zoning Permit.
 - a. The zoning permit shall be issued only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
 - b. Prior to the issuance of any zoning permit, the Borough shall review the application for permit to determine if all other necessary governmental permits required by State and Federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 537, as amended); the Dam Safety and Encroachment Act (Act 1978 325, as amended); the U.S. Clean Water Act, Section 404, 33, U.S.C. 1334; and the Pennsylvania Clean Streams Act (Act 1937 394, as amended). No zoning permit shall be issued until this determination has been made.
 - c. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Borough and until all required permits or approvals have been first obtained from the Pennsylvania Department of Environmental Protection, Bureau of Dams and Waterway Management.

In addition, the Federal Emergency Management Agency and Pennsylvania Department of Community and Economic Development shall be notified by the Borough prior to any alteration or relocation of any watercourse.

2. Application Procedure and Requirements. In addition to the information and documentation ordinarily required for zoning permits, applicants shall also include the following specific information along with any application for construction or development within any floodplain district:
 - a. If any proposed construction or development is located entirely or partially within any identified floodplain district, applicants for zoning permits shall provide all the necessary information in sufficient detail and clarity to enable the Borough to determine that:
 - (2) All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
 - (3) All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and
 - (4) Adequate drainage is provided so as to reduce exposure to flood hazards.
 - (5) Structures will be anchored to prevent floatation, collapse, or lateral movement.
 - (6) Building materials are flood-resistant.
 - (a) appropriate practices that minimize flood damage have been used.
 - (b) electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
3. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Borough to make the above determination:
 - a. A completed zoning permit applicant form.
 - b. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
 - (1) North arrow, scale, and date;
 - (2) Topographic contour lines, if available;
 - (3) All property and lot lines including dimensions, and the size of the site expressed in acres or square feet;

- (4) The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development;
 - (5) The location of all existing streets, drives, and other access ways; and
 - (6) The location of any existing bodies of water or watercourses, identified floodplain areas, and if available, information pertaining to the floodway, and the flow of water including direction and velocities.
4. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
 - a. The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum (NAVD) of 1988;
 - b. The elevation of the one hundred (100) year flood;
 - c. If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one hundred (100) year flood; and
 - d. Detailed information concerning any proposed floodproofing measures and their corresponding elevations.
 5. The following data and documentation:
 - a. When any part of a proposed structure or a substantial improvement to an existing structure is to be built below the elevation of the one hundred (100) year flood, the applicant must submit a document, certified by a registered professional engineer or architect, which states that the proposed construction has been adequately designed to withstand the one hundred (100) year flood elevations, pressures, velocities, impact and uplift forces associated with the one hundred (100) year flood.

Such statement shall include a description of floodproofing measures, which have been incorporated into the design of the structure and/or the development.
 - b. Detailed information needed to determine compliance with Floodplain Management Ordinance Subsections 122-23F, Storage, and, 122-24, Development Which May Endanger Human Life, including:
 - (1) The amount, location and purpose of any materials or substances referred to in Floodplain Management Ordinance Subsections 122-23F and 122-24, which are intended to be used, produced, stored or otherwise maintained on site.

- (2) A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Floodplain Management Ordinance Subsection 122-24 during a one hundred (100) year flood.
- c. The appropriate component of the Pennsylvania Department of Environmental Protection “Planning Module for Land Development.”
- d. Where any excavation or grading is proposed, a plan meeting the requirements of the Pennsylvania Department of Environmental Protection, to implement and maintain erosion and sedimentation control.

Section 205-32 Fees.

- A. The Borough Council shall establish by resolution a schedule of fees, charges and expenses and collection procedures for zoning permits, occupancy permits, special exceptions, variances and appeals, and other matters pertaining to this chapter. The schedule of fees shall be posted in the office of the Zoning Officer and may be altered or amended only by the Borough Council.
- B. No action shall be taken on any application or appeal until all application fees, charges and expenses have been paid in full.

Section 205-33 Causes of Action.

In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this chapter, the Borough Council or, with the approval of the Borough Council, an officer of the Borough, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Borough at least 30 days prior to the time the action is begun by serving a copy of the complaint on the Borough Council. No such action may be maintained until such notice has been given.

Section 205-34 Enforcement Action.

- A. If it appears to the Borough that a violation of this chapter has occurred, the Borough shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.

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

Section 205-35 Violations and Penalties.

- A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there was a good-faith basis for the person, partnership or corporation violating this chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation.
- B. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.

- C. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Borough the right to commence any action for enforcement pursuant to this section.
- D. District Justices shall have initial jurisdiction over proceedings brought under this section.

Article VII. Zoning Hearing Board.

Section 205-36 Creation; membership; powers and duties.

- A. There is hereby created for the Borough a Zoning Hearing Board in accordance with the provisions of Article IX of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10901 et seq.
- B. The membership of the Board shall consist of three residents of the Borough appointed by resolution by the Borough Council. The terms of office shall be for three years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Borough.
- C. 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 which appointed the member, taken after the member has received 15 days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.
- D. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action a quorum shall be not less than a majority of all the members of the Board, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided in this chapter.
- E. The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the Borough and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the Borough and shall submit a report of its activities to the Borough Council as requested by the Borough Council.
- F. Within the limits of funds appropriated by the Borough Council, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties, as may be fixed by the Borough Council, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Borough Council.

Section 205-37 Hearings.

- A. Notice of all Zoning Hearing Board hearings shall be provided as follows:
1. Public notice: Public notice, as defined herein, shall be given and written notice shall be given to the applicant, the Zoning Officer, Borough Council and to any person who has made timely request for the same.
 2. Delivery of notice: Notice should be given by personal delivery or by regular first-class mail, not less than seven days prior to the scheduled hearing, to the last known owners of record of property within a two-hundred-foot radius of the lot lines of the subject property.
 3. Posting: In addition to the written notice provided herein, written notice of said hearing shall be posted on the affected tract of land in a conspicuous place, as determined by the Zoning Enforcement Officer, at least seven days prior to the hearing.
- B. The hearing shall be held within 60 days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.
- C. The hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board, however, the appellant or the applicant, as the case may be, in addition to the Borough, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.
- D. The parties to the hearing shall be the Borough, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
- E. The Chairman or Acting Chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- F. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- G. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- H. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the

decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

- I. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- J. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this chapter or of any law, ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than 30 days after the report of the hearing officer. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within 60 days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of the said decision within 10 days from the last day it could have met to render a decision in the same manner as provided in Subsection A of this section. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
- K. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other person who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide, by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.
- L. The Borough Council shall establish, by resolution, fees with respect to hearings before the Zoning Hearing Board.

Section 205-38 Jurisdiction.

A. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

1. Substantive challenges to the validity of any land use ordinance, except those brought before the Borough Council pursuant to §§ 609.1 and 916.1(a)(2) of the Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. §§ 10609.1 and 10916.1.
2. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within 30 days after the effective date of said ordinance. Where the ordinance appealed from is the initial zoning ordinance of the Borough and a Zoning Hearing Board has not been previously established, the appeal raising procedural questions shall be taken directly to court.
3. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease-and-desist order or the registration or refusal to register any nonconforming use, structure or lot.
4. Appeals from a determination by the Borough Engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance.
5. Applications for variances from the terms of this chapter and flood hazard ordinance or such provisions within a land use ordinance, pursuant to § 910.2 of the MPC, 53 P.S. § 10910.2.
6. Applications for special exceptions under this chapter or floodplain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to § 912.1 of the MPC, 53 P.S. § 10912.1.
7. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this chapter.
8. Appeals from the Zoning Officer's determination under § 916.2 of the MPC, 53 P.S. § 10916.2.
9. Appeals from the determination of the Zoning Officer or Borough Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving applications under Article V or VII of the MPC, 53 P.S. §§ 10501 et seq. and 10701 et seq.

B. The Borough Council shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

1. All applications for approvals of planned residential developments under Article VII of the MPC pursuant to the provisions of § 702 of the MPC, 53 P.S. § 10702.
2. All applications pursuant to § 508 of the MPC, 53 P.S. § 10508, for approval of subdivisions or land developments under Article V of the MPC, 53 P.S. § 10501 et seq.
3. Applications for conditional use under the express provisions of this chapter.
4. Applications for curative amendment to this chapter or pursuant to §§ 609.1 and 916.1(a) of the MPC, 53 P.S. §§ 10609.1 and 10916.1(a).
5. All petitions for amendments to land use ordinances, pursuant to the procedures set forth in § 609 of the MPC, 53 P.S. § 10609.
6. Appeals from the determination of the Zoning Officer or the Borough Engineer in the administration of any land use ordinance or provisions thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to applications for land development under Articles V and VII of the MPC, 53 P.S. §§ 10501 et seq. and 10701 et seq. Where such determination relates only to development not involving an Article V or VII application, the appeal from such determination of the Zoning Officer or the Borough Engineer shall be to the Zoning Hearing Board pursuant to this section. Where the applicable land use ordinance vests jurisdiction for final administration of subdivision and land development applications in the Planning Commission, all appeals from determinations under this subsection shall be to the Planning Commission and all appeals from the decision of the Planning Commission shall be to court.

Section 205-39 Variances.

- A. The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:
 1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this chapter in the neighborhood or district in which the property is located.
 2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

3. That such unnecessary hardship has not been created by the applicant.
 4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
 5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- B. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101 et seq.
- C. Variance procedures and requirements. Requests for variances within an identified floodplain area shall be considered by the Zoning Hearing Board in accordance with the following:
1. No variance shall be granted for any construction, development, use or activity within any floodway area that would cause any increase in the one-hundred-year-flood elevation.
 2. Except for a possible modification of the freeboard requirements involved, no variance shall be granted for any of the other requirements pertaining specifically to development which may endanger human life.
 3. If granted, a variance shall involve only the least modification necessary to provide relief.
 4. In granting any variance, the Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this chapter.
 5. Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing that:
 - a. The granting of the variance may result in increased premium rates for flood insurance.
 - b. Such variances may increase the risks to life and property.
 6. In reviewing any request for a variance, the Zoning Hearing Board shall consider, but not be limited to the following:
 - a. That there is good and sufficient cause.
 - b. That failure to grant the variance would result in exceptional hardship to the applicant.

- c. That the granting of the variance will not result in an unacceptable or prohibited increase in flood elevations, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on, or victimization of the public or conflict with any other applicable local or state ordinance and regulations.
 - d. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-hundred-year flood.
7. A complete record of all variance requests and related actions shall be maintained by the Zoning Hearing Board. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Emergency Management Agency.

Section 205-40 Special Exceptions.

- A. Where the Borough Council, in this chapter, has stated special exceptions to be granted or denied by the Zoning Hearing Board pursuant to express standards and criteria, the Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this chapter, as it may deem necessary to implement the purposes of this chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101 et seq.
- B. Review factors for special exceptions in floodplain districts.
 - 1. In reviewing applications for special exceptions in floodplain districts, as permitted by the Floodplain Management Ordinance or the Zoning Ordinance, the Zoning Hearing Board shall consider all relevant factors and procedures specific in other sections of the Zoning Ordinance and:
 - a. The danger to life and property due to increased flood elevations or velocities caused by encroachments.
 - b. The danger that materials may be swept onto other lands or downstream to the injury of others.
 - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
 - e. The importance of the services provided by the proposed facility to the community.
 - f. The requirements of the facility for a waterfront location.

- g. The availability of alternative locations not subject to flooding for the proposed use.
 - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
 - j. The safety of access to the property in time of flood of ordinary and emergency vehicles.
 - k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
 - l. Such other factors which are relevant to the purposes of this chapter.
2. Supplemental technical review. The Zoning Hearing Board may refer any application and accompanying documentation pertaining to any request for a special exception to any engineer or other qualified persons or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for protection and other related matters.
3. Conditions for approving special exceptions.
- a. Special exceptions shall only be issued after the Zoning Hearing Board has determined that the granting of such will not result in:
 - (1) Unacceptable or prohibited increases in flood heights;
 - (2) Additional threats to public safety;
 - (3) Extraordinary public expense;
 - (4) The creation of nuisances;
 - (5) Any fraud or victimization of the public; or
 - (6) Any conflict with local laws or ordinances.
 - b. No special exception shall be granted for any proposed use, development, or activity within any floodway district (FW) that will cause any increases in flood elevations.

Section 205-41 Time limitations.

- A. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than 30 days after an application for development, preliminary or final, has been approved by the Borough if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure

of anyone other than the landowner to appeal from an adverse decision on a tentative plan or from an adverse decision by the Zoning Officer on a challenge to the validity of this chapter or an amendment hereto or map or an amendment thereto shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

- B. All appeals from determinations adverse to the landowner shall be filed by the landowner within 30 days after notice of the determination is issued.

Section 205-42 Stay of Proceedings.

- A. Upon filing of any appeal proceeding before the Zoning Hearing Board and during its pendency before the Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals, on petition, after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board.
- B. After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.
- C. The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.
- D. If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order of the court below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by the petitioner.

Section 205-43 Parties appellant before Board.

Appeals raising the substantive validity of any land use ordinance (except those to be brought before the Borough Council pursuant to the Pennsylvania Municipalities Code), procedural questions or alleged defects in the process of enactment or adoption of a land use ordinance; or from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease-and-desist order or the registration or refusal to register any nonconforming use, structure or lot; from a determination by the Borough Engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance; from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this chapter; from the determination of the Zoning Officer or Borough Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving subdivision and land development or planned residential development, may be filed with the Zoning Hearing Board in writing by the landowner affected, any officer or agency of the Borough, or any person aggrieved. Requests for a variance and for special exception may be filed with the Board by any landowner or any tenant with the permission of such landowner.

Article VIII. Planning Commission.

Section 205-44 Compliance.

Nothing in this chapter shall relieve the owner or his agent, the developer, or the applicant for either a special exception permit or a site development plan approval from receiving a subdivision plan approval in accordance with the Borough Subdivision Ordinance (Chapter 180), if any.

Section 205-45 Approval of site development plans.

In all cases where this chapter requires approval of site development plans by the Commission, no building permit shall be issued except upon authorization of and in conformity with the plans approved by the Commission.

A. Objectives. In considering and acting upon site development plans the Commission shall take into consideration the public health, safety and welfare, the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular, and may prescribe appropriate conditions and safeguards as may be required in order that the result of its action may, to the maximum extent possible, further the express intent of this chapter and the accomplishment of the following objectives in particular:

1. Traffic access. That all proposed traffic access and ways are adequate but not excessive in number; adequate in width, grade, alignment and visibility; not located too near street corners or other places of public assembly; and other similar safety considerations.

2. Circulation and parking. That adequate off-street parking and loading spaces are provided to prevent parking in public streets of vehicles of any person connected with or visiting the use and that the interior circulation system is adequate to provide safe accessibility to all required off-street parking lots.
3. Landscaping and screening. That all playground, parking and service areas are reasonably screened all seasons of the year from the view of adjacent residential lots and streets and that the general landscaping of the site is in character with that generally prevailing in the neighborhood. Existing trees over four inches in diameter measured 4 1/2 feet above the average ground level shall be retained to the maximum extent possible.
4. Illumination. The lighting from the installation of outdoor flood or spot lighting and illuminated signs will be properly shielded so that such lighting will not adversely affect any abutting property or public street.

B. Procedure.

1. Presubmission conference. Prior to the submission of a site development plan, the applicant shall meet in person with the Commission. The purpose of such conference shall be to discuss proposed uses or development in order to determine which of the site development plan elements listed in Subsection D shall be submitted to the Commission in order for said Commission to determine conformity with the provisions and intent of this chapter.
2. Submission to commission. Within three months following the presubmission conference, the site development plan and any related information shall be submitted to the Commission in four copies at least 30 days prior to the Commission meeting at which approval is requested. If not submitted within this three-month period another presubmission compliance shall be required.
3. Referral to the County Planning and Zoning Commission. Should any site development plan constitute a subdivision or land development plan subject to the Subdivision and Land Development Ordinance (Chapter 180), the procedures in said ordinance concerning review of said plan by the County Planning Commission shall then be applicable.
4. Commission action. The Commission shall act to approve, modify and approve, or disapprove any such site development plan within 60 days after the meeting at which approval is requested. Failure to act within 60 days shall be deemed approval. Commission disapproval shall include written findings upon any site development plan element found contrary to the provisions or intent of this chapter.
5. Conditions and safeguards.
6. Amendments to a site development plan shall be acted upon in the same manner as the approval of the original plan.
7. The Commission may require that site plan approval be periodically reviewed.

C. Effect of site development plan approval.

1. No building permit shall be issued for any structure covered by this section until an approved site development plan or approved amendment of any such plan has been secured by the applicant from the Commission.
2. No certificate of occupancy will be issued for any structure or use of land covered by this section unless the structure is completed or the land is developed or used in accordance with an approved site development plan or approved amendment of any such plan.

D. Site development plan elements. The applicant shall cause a site development plan map to be prepared by a civil engineer, surveyor, land planner, architect, or other competent person. Site development plan elements shall include those listed below which are appropriate to the proposed development or use as indicated by the Commission in the presubmission conference:

1. Legal data.
 - a. Lot, block and section number of the property taken from the latest tax records.
 - b. Name and address of the owner of record.
 - c. Name and address of person, firm, or organization preparing map.
 - d. Date, North point, and written and graphic scale.
 - e. Sufficient description of information to define precisely the boundaries of the property. All distances shall be in feet and hundredths of a foot. All angles shall be given to the nearest 10 seconds or closer. The error of closure shall not exceed one in 5,000.
 - f. The locations, names, and existing widths of adjacent streets and curblines.
 - g. The locations and owners of all adjoining lands as shown on the latest tax records.
 - h. Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use within or adjoining the property.
 - i. A complete outline of existing deed restrictions or covenants applying to the property.
 - j. Existing zoning.
2. Natural features.
 - a. Existing contours with intervals of five feet or less, referred to a datum satisfactory to the Commission.

- b. Approximate boundaries of any area subject to flooding or stormwater overflows.
 - c. Location of existing watercourses, marshes, wooded areas, rock outcrops, isolated trees with a diameter of four inches or more, measured 4 1/2 feet above the average ground level, and other significant existing features.
 - d. Soil percolation test results as required by the Commission.
 - e. Detailed soil survey map as required by the Commission.
3. Existing structures and utilities on and within 200 feet of the site.
 - a. Location of uses and outlines of structures drawn to scale.
 - b. Paved areas, sidewalks, and vehicular access.
 - c. Locations, dimensions, grades, and flow direction of existing sewers, culverts, water lines as well as other underground and aboveground utilities within and adjacent to the property.
 - d. Other existing development, including fences, landscaping, and screening.
4. Proposed development.
 - a. The location of proposed buildings or structural improvements.
 - b. The location and design of all uses not requiring structures such as off-street parking and loading areas.
 - c. The location, direction, power and time of use for any proposed outdoor lighting or public address systems.
 - d. The location and plans for any outdoor signs.
 - e. The location and arrangement of proposed means of access and egress, including sidewalks, driveways, or other paved areas. Profiles indicating grading and cross sections showing width of roadway, location and width of sidewalks and location and size of water and sewer lines.
 - f. Any proposed grading, screening, and other landscaping including types and locations of proposed street trees.
 - g. The location of all proposed water lines, valves and hydrants, and of all sewer lines and manholes or alternate means of water supply and distribution and sewage disposal and treatment.

- h. An outline of any proposed deed restrictions or covenants.
 - i. Any contemplated public improvements on or adjoining the property.
 - j. If the site development plan only indicates a first stage, a supplementary plan shall indicate ultimate development.
5. Lighting plan requirements:
- a. A photometric plan shall be required.
 - b. Lighting provided shall not be less than one-half (0.5) foot-candles or greater than fifteen (15) foot-candles at any point in the parking area.
 - c. No more than one-half (0.5) foot-candles shall be permitted at any property line.
 - d. Shielding. All light sources shall be shielded around the light source and carefully directed and placed to prevent the lighting from creating a nuisance to adjacent properties or roadways.
 - e. Down directed lighting shall be used.
 - f. Lighting shall be on a photo cell or other timing mechanism to ensure lightin is adequate from dusk to dawn during operating hours.
6. Any other information deemed by the Commission necessary to determine conformity of the site plan with the intent and regulations of this chapter.

Article IX. Amendments.

Section 205-46 General Procedure.

- A. Amendments to this chapter shall become effective only after a public hearing held pursuant to public notice. A brief summary setting forth the principal provisions of the proposed amendment and a reference to the place within the Borough where copies of the proposed amendment may be secured or examined shall be incorporated in the public notice. Unless the proposed amendment shall have been prepared by the Planning Commission, the Borough Council shall submit the amendment to the Planning Commission at least 30 days prior to the hearing on such amendment to provide the Planning Commission an opportunity to submit recommendations. In addition, at least 30 days prior to the public hearing on the amendment, the Borough shall submit the proposed amendment to the county planning agency for recommendations.
- B. Within 30 days after adoption, the Borough Council shall forward a certified copy of the amendment to the county planning agency.
- C. Proposed amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this section, and shall include the time and place of the meeting at which passage will be considered, a reference to a place within the Borough where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The Borough Council shall publish the proposed amendment once in a

newspaper of general circulation in the Borough not more than 60 days nor less than seven days prior to passage. Publication of the proposed amendment shall include either the full text thereof or the title and a brief summary, prepared by the Borough Solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:

1. A copy thereof shall be supplied to a newspaper of general circulation in the Borough at the time the public notice is published.
 2. An attested copy of the proposed amendment shall be filed in the county law library (or other county office designated by the County Commissioners).
- D. In the event substantial amendments are made in the proposed amendment, before voting upon enactment, the Borough Council shall, at least 10 days prior to enactment, readvertise, in one newspaper of general circulation in the Borough, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.

Section 205-47 Enactment of zoning ordinance amendments.

- A. The Borough Council may from time to time amend, supplement, or repeal any of the regulations and provisions of this chapter. The procedure for the preparation of a proposed zoning ordinance as set forth in § 607 of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10607, is hereby declared optional.
- B. Before voting on the enactment of an amendment, the Borough Council shall hold a public hearing thereon, pursuant to public notice. In addition, if the proposed amendment involves a Zoning Map change, notice of said public hearing shall be conspicuously posted by the Borough at points deemed sufficient by the Borough along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.
- C. In the case of an amendment other than that prepared by the Planning Commission, the Borough Council shall submit each such amendment to the Planning Commission at least 30 days prior to the hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendations.
- D. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
- E. At least 30 days prior to the public hearing on the amendment by the Borough Council, the Borough shall submit the proposed amendment to the county planning agency for recommendations.
- F. Within 30 days after enactment, a copy of the amendment to this chapter shall be forwarded to the county planning agency.

Section 205- 48 Procedure for landowner curative amendments.

- A. A landowner who desires to challenge on substantive grounds the validity of this chapter or the Zoning Map, or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the Borough Council with a written request that his challenge and proposed amendment be heard and decided as provided in § 916.1 of the Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. § 10916.1. The curative amendment and challenge shall be referred to the Planning Commission and the county planning agency as provided in § 609 and notice of the hearing thereon shall be given as provided in §§ 610 and 916.1 of the MPC, 53 P.S. §§ 10609, 10610, and 10916.1.

- B. The hearing shall be conducted in accordance with § 908 of the MPC, 53 P.S. § 10908, and all references therein to the Zoning Hearing Board shall, for purposes of this section, be references to the Borough Council. If the Borough does not accept a landowner's curative amendment brought in accordance with this subsection and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for this entire chapter and Zoning Map, but only for those provisions which specifically relate to the landowner's curative amendment and challenge.

- C. The Borough Council, if it determines that a validity challenge has merit, may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment which will cure the challenged defects. The Borough Council shall consider the curative amendments, plans and explanatory material submitted by the landowner and shall also consider:
 - 1. The impact of the proposal upon 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 upon 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 this chapter or Zoning Map.
 - 3. The suitability of the site for the intensity of use proposed by 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 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.

Section 205-49 Procedure for Borough curative amendments.

- A. If the Borough determines that this chapter, or any portion hereof, is substantially invalid, it shall take the following actions:
1. The Borough shall declare by formal action, this chapter or portions hereof substantially invalid and propose to prepare a curative amendment to overcome such invalidity. Within 30 days of such declaration and proposal the Borough Council shall:
 - a. By resolution make specific findings setting forth the declared invalidity of this chapter which may include:
 - (1) References to specific uses which are either not permitted or not permitted in sufficient quantity;
 - (2) Reference to a class of use or uses which requires revision; or
 - (3) Reference to this entire chapter which requires revisions.
 - b. Begin to prepare and consider a curative amendment to this chapter to correct the declared invalidity.
- B. Within 180 days from the date of the declaration and proposal, the Borough shall enact a curative amendment to validate, or reaffirm the validity of, this chapter pursuant to the provisions of § 609 of the Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. § 10609, in order to cure the declared invalidity of this chapter.
- C. Upon the initiation of the procedures as set forth in Subsection A, the Borough Council shall not be required to entertain or consider any landowner's curative amendment filed under § 609.1 of the MPC, 53 P.S. § 10609.1, nor shall the Zoning Hearing Board be required to give a report requested under §§ 909.1 or 916.1 of the MPC, 53 P.S. §§ 10909.1 and 10916.1, subsequent to the declaration and proposal based upon the grounds identical or substantially similar to those specified by the resolution required by Subsection A(1). Upon completion of the procedures set forth in Subsections A and B, no rights to a cure pursuant to the provisions of §§ 609.1 and 916.1 of the MPC, 53 P.S. §§ 10609.1 and 10916.1, shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of this chapter for which there has been a curative amendment pursuant to this section.
- D. The Borough, having utilized the procedures set forth in this section, may not again utilize said procedure for a period of 36 months following the date of enactment of a curative amendment, or reaffirmation of the validity of this chapter; provided, however, if after the date of declaration and proposal there is a substantially new duty imposed upon the Borough by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, the Borough may utilize the provisions of this section to propose a curative amendment to this chapter to fulfill said duty or obligation.

Article X. Definitions.

Section 205-50 Word usage and interpretation.

Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meaning indicated:

- A. Words in the singular include the plural and those in the plural include the singular.
- B. Words used in the present tense include the future tense.
- C. The words "person" and "owner" include a corporation, unincorporated association and a partnership, or other legal entity, as well as an individual.
- D. The term "occupied" or "used" as applied to any building shall be construed as though followed by the words "or intended, arranged, or designed to be occupied or used."
- E. The word "building" includes "structure" and shall be construed as if followed by the phrase "or part thereof."
- F. The word "lot" includes the word "plot."
- G. The word "watercourse" includes channel, creek, ditch, dry run, spring, stream and river.
- H. The words "should" and "may" are permissive; the words "shall" and "will" are mandatory and directive.
- I. The word "erect" shall mean to build, construct, alter, repair, display, relocate, attach, hang, place, suspend, affix or maintain any structure or building and shall also include the painting of exterior wall signs.

Section 205-51 Definitions.

Other terms or words used herein shall be interpreted or defined as follows:

ACCESSORY

A building or use clearly incidental or subordinate to, and customary in connection with, and located on the same lot with the principal building or use.

ADULT BOOKSTORE

Any commercial establishment having as a substantial or significant portion of its stock-in-trade, including but not limited to, books, magazines, periodicals, visual representations or writings, distinguished or characterized by emphasis on matter depicting, describing or related to specified anatomical areas or to specified sexual activities, or an establishment with a segment or section devoted to the sale or display of such materials.

ADULT CABARET

Any commercial establishment substantially engaged in the presentation of sexual conduct or specified sexual activities as defined in this chapter, or any establishment which has a segment or section devoted to these presentations.

ADULT DAYCARE

An establishment offering care or supervision of special needs adults in lieu of care or supervision by family members, elderly persons (generally sixty-two years of age and older), mentally disabled, and/or physically handicapped persons who need such daily assistance because of their physical or cognitive disability or disease. This use shall not include persons who need oversight because of criminal and/or violent behavior. The use shall involve typical stays of less than a total of sixty (60) hours per week per person.

ADULT MOTION-PICTURE THEATER

Any commercial establishment substantially engaged in showing obscene films or films commonly denoted as "adult films," or an establishment with a segment or section devoted to the showing of obscene or "adult films."

ADVERTISEMENT

The outdoor display of any writing, printing, picture, painting, emblem, drawing, sign or similar device intended to invite or draw the attention to the public to any goods, merchandise, property, business, service, entertainment, amusement or industrial activity or establishment.

ADVERTISING STRUCTURE

Any rigid or semirigid material with or without advertisement displayed thereon situated upon or attached to or which is part of real property for the purpose of furnishing a background, base surface or support upon which an advertisement may be posted or displayed outdoors.

ALLEY

See "street."

ANIMAL HUSBANDRY

The raising and keeping of livestock and poultry, with the intent of producing capital gain, or profit or with the intent of selling any livestock or poultry products. The keeping of livestock or poultry as farm pets, or for domestic purpose pursuant to the regulations of this chapter, shall not be construed as animal husbandry.

APPLICANT

A landowner or developer, as hereinafter defined, who has filed an application for development including his heirs, successors and assigns.

APPLICATION FOR DEVELOPMENT

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

ART GALLERY

An establishment primarily engaged in the display and retail sales of original and limited edition art works.

ARTS & LEARNING CENTER

A functionally unique facility with a specific focus and purpose to encourage life-long learning and provide services in the community for all age groups and to provide facilities such as studio space, gallery space, venues for learning and performance, offices, workshop

areas, educational facilities, tools and technical equipment. An arts and learning center shall be a non-profit organization geared toward exposing, generating and making accessible life-long learning opportunities to individuals with the building containing a minimum of 10,000 square feet in gross floor area and provides space to non-profit community service companies involved in art making, education and life-long learning. The use may include offices for other community non-profit organizations, government agencies and community groups. This use shall not include residential uses or any type of “treatment center”. Services may include full education and art courses, programs, exhibits and demonstrations, workshops from/for professional community organizations, educational/arts activities and tutoring.

ASSISTED LIVING RESIDENCE

An assisted living residence as defined in Pennsylvania Code Title 55, Chapter 2800.4, as amended from time to time.

AUTOMATED BANKING FACILITY

An establishment that contains automated devices performing banking or financial functions which are operated by the consumer or patron primarily for those who remain in their vehicle, but may also be operated by those customers walking up to the device. This use does not include “bank”.

BANK

A financial institution that accepts deposits and provides credit to the public. Routine interactions/activities with customers and/or patrons including savings/deposits, investments, loans, money exchange, etc. A bank may also provide financial counseling, planning, and services related to money management, and includes those establishments considered savings and loans and credit unions.

BAR/TAVERN

See “Tavern/Bar” definition.

BASEMENT

A story in a building, the structural ceiling level of which is four feet or more above average level of finished grade where such grade abuts that exterior wall of such building which fronts on any street, and the floor level of which is below finished grade at any point on the periphery of the building.

BED-AND-BREAKFAST

An owner-occupied or manager-occupied establishment within a single family detached dwelling, providing temporary, overnight lodging accommodations in sleeping rooms/units for transient guests and related meal service for compensation. Bed and breakfast may also host accommodations for private events (i. e. weddings and small gatherings). Temporary, overnight lodging occurs within individual sleeping rooms/units which do not contain cooking facilities.

BLOCK

An area bounded by three or more streets.

BOARD

Any body granted jurisdiction under a land use ordinance or under this chapter to render final adjudications.

BOARDINGHOUSE

A residential use in which individual room(s) that do not meet the definition of a dwelling unit are rented for habitation routinely for periods of seven consecutive days or longer and

that does not meet the definition of a hotel, motel, bed-and-breakfast use, group home or nursing home. A boardinghouse may either involve or not involve the providing of meals only to residents.

BOROUGH

The Borough of Greencastle, Franklin County, Commonwealth of Pennsylvania.

BUFFER STRIP

A strip of land at least 10 feet in width which may be part of the minimum setback distance, free of any principal or accessory building or required improvement other than screening.

BUILDING

Any combination of materials forming any construction, except where entirely underground, so as to permit the use of the ground above same as if no building was present; the term "building" shall include the term "structure" as well as the following:

A. Signs.

B. Radio and television receiving and transmitting towers, except for such antennas installed on the roof of a building and extending not more than 20 feet above the highest level of the roof of such building.

C. Porches, outdoor bins and other similar structures.

BUILDING AREA

The horizontal area measured around the outside of the foundation walls plus the floors of roofed porches and roofed terraces, and including the area of accessory buildings if any. In the case of split-level dwellings, the first-floor area shall be deemed to include floor areas on two nonoverlapping levels, separated by a half-story, or less, of height.

BUILDING, FACE OF OR FRONT OF

The outer surface of a building, which is visible from any private or public street or highway.

BUILDING HEIGHT

The vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to the mean height between eave and ridge for other types of roofs.

BUILDING, PRINCIPAL

A building in which is conducted the main or principal use of the lot on which said building is located.

BUILDING SETBACK LINE

The required horizontal distance between a required setback line and an abutting lot line or street right-of-way line, as applicable.

(1) SETBACK, FRONT: The distance between the street right-of-way line and the required front setback line. Corner lots shall have two (2) front setbacks. Lots encompassing a whole block (public streets on three sides of the lot, with or without an alley in the rear) shall have three (3) front yards.

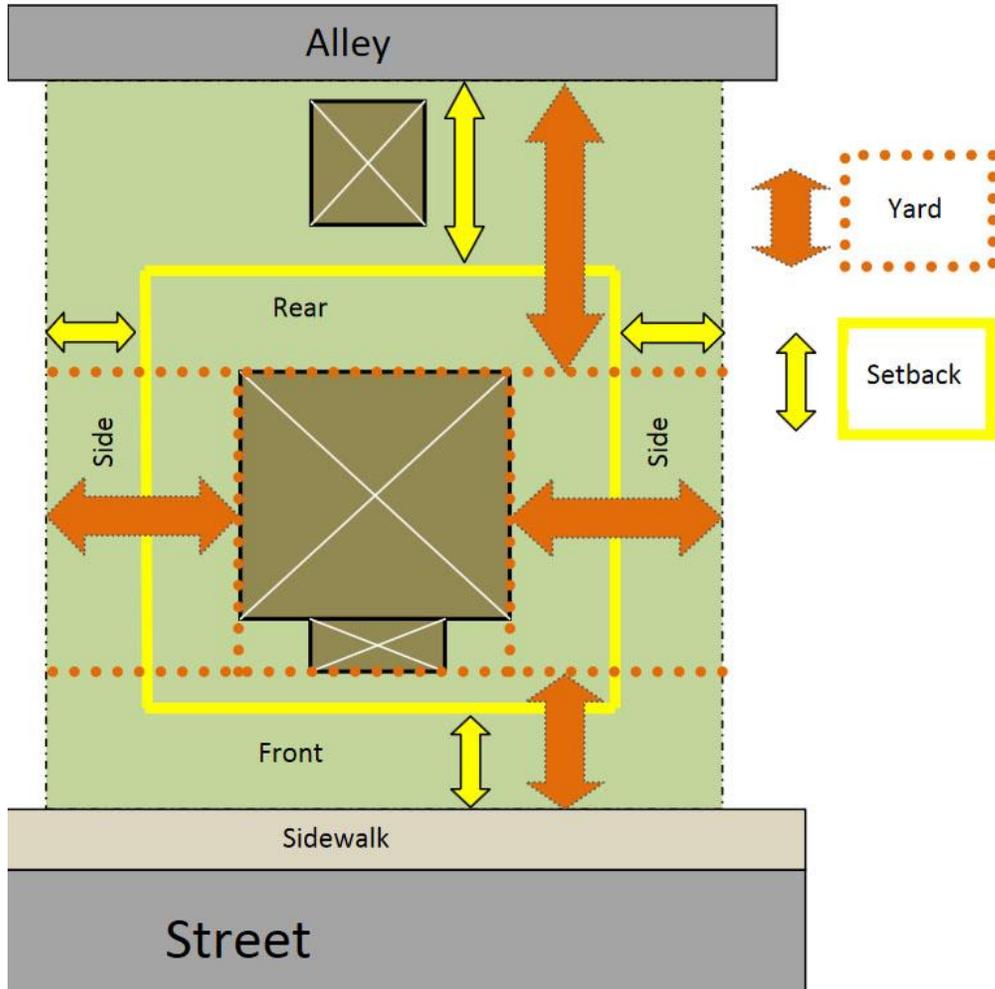
See Setback Figure 1 below for Typical Setbacks and Yards, Interior Lots and Setback Figure 2 below for Typical Setbacks and Yards, Corner Lots. See Setback Figure 3 below for Typical Setbacks and Yards, Whole Block Lots.

(2) SETBACK, REAR: The distance between the rear lot line and the required rear setback line. Corner lots shall have one (1) rear setback. Lots encompassing a whole block (public streets on three sides of the lot, with or without an alley in the rear) shall have 1 rear setback adjacent to the alley or the lot line not adjacent to a street.

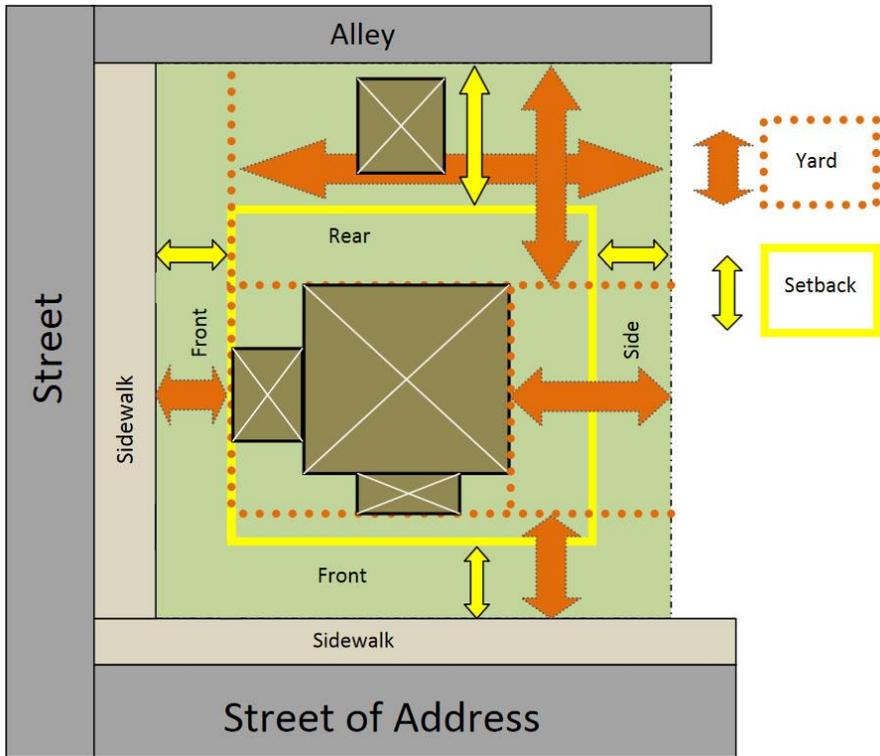
See Setback Figure 1 below for Typical Setbacks and Yards, Interior Lots and Setback Figure 2 below for Typical Setbacks and Yards, Corner Lots. See Setback Figure 3 below for Typical Setbacks and Yards, Whole Block Lots.

(3) SETBACK, SIDE: The distance between the side lot line and the required side setback line. Corner lots shall have one (1) side setback. Lots encompassing a whole block (public streets on three sides of the lot, with or without an alley in the rear) shall have no side yards.

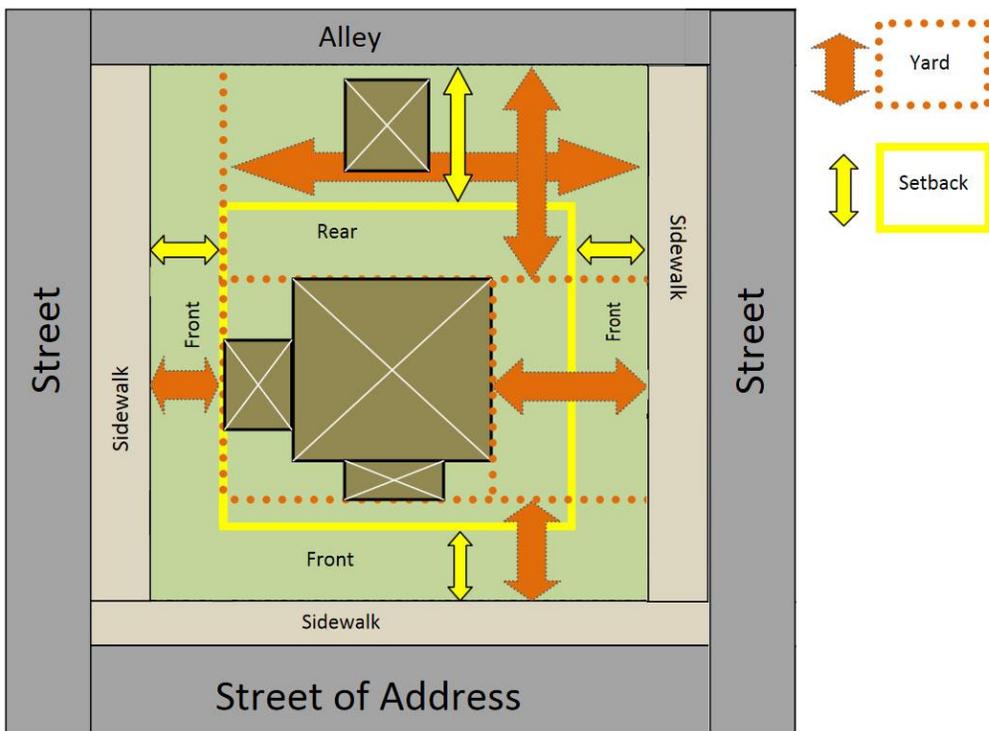
See Setback Figure 1 below for Typical Setbacks and Yards, Interior Lots and Setback Figure 2 below for Typical Setbacks and Yards, Corner Lots. See Setback Figure 3 below for Typical Setbacks and Yards, Whole Block Lots.



SETBACK FIGURE 1



SETBACK FIGURE 2



SETBACK FIGURE 3

BUSINESS

Any enterprise, occupation, trade or profession engaged in, either continuously or temporarily, for profit. The term "business" shall include the occupancy or use of a building or premises or any portion thereof for the transaction of business or the rendering or receiving of professional or personal service.

CARTWAY (ROADWAY)

The paved portion of a street right-of-way intended for vehicular use.

CELLAR

Any space in a building the structural ceiling level of which is less than four feet above the average finished grade where such grade abuts that exterior wall of such building which fronts on any street. A cellar shall not be considered in determining the permissible number of stories.

CHILD DAY CARE CENTER

A use involving the supervised care of children outside their home, which use may include preschool or educational activities that supplement state required education, however, an authorized Home Day Care use shall not constitute a Child Day Care Center.

CLEAR SIGHT TRIANGLE

An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the intersection of the street center line.

CLUB, PRIVATE

An organization catering exclusively to members and their guests and not the general public. Private clubs shall include, but not be limited to: educational, fraternal, service, political organizations, labor unions, and social and athletic clubs. A private club does not include activities that are not for the primary benefit and participation of its members.

CLUSTER DEVELOPMENT

A tract of land and/or buildings planned as a whole for development of single-family dwelling units. Said development shall permit a reduction of the lot size while at the same time maintaining the overall density requirements applicable to the district in which said land is situated and conforming to all other applicable requirements.

COMMERCIAL RESORTS

A business combining lodging, eating and recreational facilities as a single enterprise and offered to the public.

COMMISSION

The Borough Planning Commission.

COMMON OPEN SPACE

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

COMMUNITY CENTER

An establishment used for non-commercial recreational, social, educational, and cultural activities, open to the public or a designated part of the public, owned or operated by a public or non-profit group or agency.

COMMUNITY GARDEN

An area of land managed and maintained by a group of individuals to grow and harvest food crops and/or non-food, ornamental crops (flowers) for personal or group use, consumption or donation. Community gardens may be divided into separate plots for cultivation by one (1) or more individuals or may be used collectively by members of the group and may include common areas maintained and used by group members.

COMPREHENSIVE PLAN

A Comprehensive Plan prepared by the Borough Planning Commission pursuant to Article **III** of the Pennsylvania Municipalities Planning Code and adopted by the Council, which indicates the general locations recommended for the various functional classes of public works, places and structures and for the general physical development of the Borough, and includes any unit or part of such plan separately adopted and any amendment to such plan or part thereof.

CONTINUING CARE RETIREMENT FACILITY

An age-restricted development or establishment that provides a continuum of accommodations and care, from independent living to long-term skilled nursing care, and enters into contracts to provide lifelong care in exchange for the payment of monthly fees and/or entrance fee. This use does not include the “retirement community” or “assisted living residence” use, although such uses may be a component of the continuing care retirement facility use.

CONVENIENCE STORE

An establishment primarily engaged in the retail sale of frequently or recurring goods for household consumption, prepackaged food and beverages, foods prepared on site, magazines, lottery tickets, tobacco products, and limited household supplies. The use also may include the on-site consumption of food and beverages, as well as the retail sale of fuel for passenger vehicles, oil, grease, auto accessories, propane, kerosene and automatic car washing facilities. This use does not include “retail business” use.

CONVENTION/CONFERENCE CENTER

See Multi-purpose venue.

COPY SHOP/BUSINESS SERVICE

An establishment primarily engaged in providing custom printing, photocopying, faxing, mailing, courier service and/or other similar business and office support services, along with accessory sales of materials and items related to copying and mailing.

COUNCIL

The Greencastle Borough Council.

COUNTY

The County of Franklin, Commonwealth of Pennsylvania.

COURT, INNER

An open space enclosed on all sides by exterior walls of a building.

COURT, OUTER

An open space enclosed on three sides by exterior walls of a building.

COURT, OUTER, DEPTH OF

The linear average dimension measured from the unenclosed side of the court to the farthest wall thereof.

COURT, OUTER, WIDTH OF

The linear dimension of the unenclosed side of the court.

CROP FARMING

The raising and keeping of field, truck and tree crops. For the purposes of this chapter the term "crop farming" does not include animal husbandry.

CRAFSTMAN/ARTISAN STUDIO

An establishment primarily engaged in the on-site production, display and sale of goods created on-site by hand manufacturing generally involving only the use of hand tools and/or other domestic mechanical equipment. Typical uses include painting and other media-art, ceramics, fabric crafts, candle-making, and jewelry manufacturing. All such production and storage associated with this use shall occur within a completely enclosed building.

CROSSWALK (INTERIOR WALK)

A publicly or privately owned right-of-way for pedestrian use extending from a street into a block or across a block to another street or to a public recreation area.

CURB LEVEL

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

DAYCARE

See Definition of "Child Day Care Center", "Home Child Day Care", and "Adult Daycare" as applicable.

DECISION

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

DEDICATION

The deliberate appropriation of land by its owner for any general and public or limited public use, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

DETERMINATION

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

A. The Borough Council;

B. The Zoning Hearing Board; or

C. The Planning Commission, only if and to the extent the Planning Commission is charged with final decision on preliminary or final plans under the subdivision and land development or planned residential development ordinances. Determinations shall be appealable only to the boards designated as having jurisdiction for such appeal.

DEVELOPER

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

DEVELOPMENT PLAN

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

DWELLING

A building or structure designed for living quarters for one or more families, including homes which are supported either by a foundation or by blocks or jacks or are otherwise permanently attached to the land. A travel trailer, a boarding or rooming house, convalescent home, fraternity or sorority house, hotel, motel, inn, nursing or other similar home, or other similar structure shall not be deemed to constitute a dwelling.

DWELLING, MULTIFAMILY

A building used by three or more families living independently of each other and doing their own cooking including, for example, apartment house, rowhouse or townhouse.

DWELLING, SINGLE-FAMILY ATTACHED

A dwelling used by one family and having two party walls in common with another dwelling unit, except for end units which have one party wall. (Example: townhouse.)

DWELLING, SINGLE-FAMILY DETACHED

A dwelling used by one family, having only one dwelling unit and having two side yards. (Example: house.)

DWELLING, SINGLE-FAMILY SEMIDETACHED

A dwelling used by one family, having one side yard, and one party wall in common with another dwelling unit. (Example: duplex.)

DWELLING, TWO-FAMILY DETACHED

A dwelling used by two families, with one dwelling unit arranged over the other and having two side yards. (Example: double house.)

DWELLING UNIT

One or more rooms used for living and sleeping purposes and having a kitchen with fixed cooking facilities arranged for occupancy by one family.

EASEMENT

The authorization by a property owner or authorized agency of a right-of-way granted, but not dedicated, for limited use of private land for a public or quasi-public purpose; and within which the owner of the property shall not erect any permanent structures, but shall have the right to make any other use of the land which is not inconsistent with the rights of the grantee.

ENDORSEMENT

The application of a public agency or body's review stamp and the signature of the chairman or official of said public agency or body.

ESSENTIAL SERVICES

The erection, construction, alteration, maintenance, by public utilities or municipal or other governmental agencies or private corporations under contract to a municipality, of gas, electrical, telephone, steam or water transmission or distribution systems, and sewer and solid waste disposal systems, including buildings, enclosures, wells, pumping stations, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic light signals, hydrants, sanitary landfills, incinerator waste disposal areas, and other similar equipment and accessories and services in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or private corporations under contract to a municipality including firehouses or fire companies and agencies or emergency services under agreement with the municipality or for the public health or safety or general welfare.

FAMILY

One or more persons occupying a dwelling unit as a single nonprofit housekeeping unit. More than five persons, exclusive of domestic servants, not related by blood, marriage, or adoption, shall not be considered to constitute a family.

FENCE

A man-made barrier placed or arranged as a line of demarcation between lots or to enclose a lot, or portion thereof, that is constructed of wood, composite, plastic/PVC, wire mesh, chain-link aluminum and/or plastic inserts, or any other material which is designed and marketed as a material suitable for fence construction. Man-made barriers constructed principally of other materials, including, but not limited to, brick, concrete or cinder block, shall be considered a wall. However, walls that are not more than four feet in height may serve as the base or foundation for a fence, in which case the total height of the wall and the fence shall not exceed the maximum height of a fence. The term "wall" does not include engineering retaining walls, which are permitted uses as needed in all districts. The terms "fence" and "wall" do not include barriers of landscaped materials, including hedges.

FLOOR AREA

The sum of the gross horizontal areas of the several floors of the building or buildings on a lot measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings, excluding cellar and basement area used only for storage and the operation and maintenance of the building.

FLOOR AREA, LIVABLE

All spaces within the exterior walls of a dwelling unit exclusive of garages, breezeways, unheated porches, cellars, heater rooms, and basements having a window area of less than 10% of the square foot area of the room. Livable floor area shall include all spaces not otherwise excluded above such as: principal rooms, utility rooms, bathrooms, all closets and hallways opening directly into any rooms within the dwelling unit and all attic space having a clear height of six feet from finished floor level to pitch of roof rafter with a clear height of seven feet six inches from finished floor level to ceiling level over 50% of the area of such attic space.

FLOOR AREA RATIO

The floor area in square feet of all buildings on a lot divided by the area of such lot in square feet.¹³

GARAGE, PRIVATE ATTACHED

A portion of a residential principal building, on a permanent foundation, used only by the occupant or occupants of the principal building for the parking or storage of household vehicles, merchandise or equipment, and from which no business, service or commercial enterprise is offered to the public.

GARAGE, PRIVATE DETACHED

A detached building accessory to a residential principal building, on a permanent foundation, used only by the occupant or occupants of the principal building for the parking or storage of household vehicles, merchandise or equipment, and from which no business, service or commercial enterprise is offered to the public.

GARAGE, PUBLIC

Any portion of a principal building from which service, repair, washing or reconditioning of motor vehicles is offered to the public.

GROUP HOME

A dwelling inhabited by not more than six (6) handicapped persons (as handicapped is defined by the Federal Fair Housing Act as amended from time to time). This definition does not include persons occupying a hotel, motel, bed and breakfast, halfway house, boarding house, treatment center or institution. This use involves persons functioning as a common household unit, providing non-routine support services and oversight to persons who need such assistance to avoid being placed in an institution because of physical, mental, or developmental disability, or old age, or individuals who meet the definition of "handicap" as defined by applicable federal law. This use does not involve the on-site medical treatment or on site care provided by a medical professional including a registered nurse.

HABITABLE FLOOR AREA

A. A "living room" within a dwelling unit, except that for the purpose of determining lot area requirements, a habitable room shall not include any of the following:

(1) Kitchen.

(2) Foyers, bathrooms, toilets, public or private halls, corridors or passageways.

(3) Dining alcoves, dinettes or other dining spaces (without limit as to size) when not separated by walls or doors from other habitable rooms or cooking spaces.

B. As a guide, an efficiency apartment contains one habitable room; a one-bedroom apartment, two habitable rooms; a two-bedroom apartment, three habitable rooms; and a three-bedroom apartment, four habitable rooms.

HALFWAY HOUSE

A non-institutional living arrangement with treatment and support services for persons with substance abuse problems or for inmates and parolees approaching parole release date or release from a corrections institution. The halfway house operates under the rules and regulations of the Pennsylvania Department of Health, Department of Corrections or similar authorities. The residents are provided full-time supervision and counseling on employment, vocations, finances and community living.

HEALTH CLUB or HEALTH SPA

Any premises which offers its subscribers or members the opportunity to engage in a program of physical exercise or conditioning on a regular or irregular basis.

HEARING

An administrative proceeding conducted by the Zoning Hearing Board of the Borough of Greencastle pursuant to Article **VIII**.

HIGHWAY

See "street."

HOME CHILD DAY CARE

A use involving the care of no more than six children (excluding children living in the home and related to the care-giver by blood, marriage, or legal adoption), located only in a single-family detached dwelling in which the care-giver resides.

HOME OCCUPATION

An occupation conducted in a dwelling unit or an accessory structure, provided that:

A. Not more than two persons other than members of the family residing on the premises shall be engaged in such occupation.

B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 30% of the ground floor area of the dwelling unit shall be used in the conduct of the home occupation.

C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one professional or announcement sign pursuant to the provisions of § **205-27**.

D. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

E. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuation in line voltage off the premises.

HOMES ASSOCIATION

An incorporated nonprofit organization operating under recorded land agreements through which:

A. Each lot and/or home owner in a cluster development or other described land area is automatically a member;

B. Each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property; and

C. The charge, if unpaid, becomes a lien against the property.

HOME, SECTIONAL

A dwelling unit manufactured in two or more sections designed for permanent occupancy, and transported to a building site in sections which are fastened together and mounted on a permanent foundation ready for occupancy except for minor and incidental unpacking and assembly operations. When fully assembled such unit shall have a minimum body width of 20 feet and a minimum length of 45 feet exclusive of such accessory structures as patio, carport, storage shed, etc.

HOSPITAL

A building or portion thereof used on a 24 hour basis for the medical, psychiatric, obstetrical, or surgical treatment of inpatients who are incapable of self-preservation which facility is licensed by the Commonwealth of Pennsylvania as a hospital facility. The term "hospital" shall not include any facility which houses the criminally insane or provides treatment for persons actively charged with or serving a sentence after being convicted as a felony.

HOTEL

An establishment providing temporary, overnight lodging accommodations for transient guests for compensation, in sleeping rooms/units that each has separate access to a common interior corridor and which may provide additional supporting services (i.e. restaurants, meeting rooms, recreation facilities, and living quarters for a resident manager or proprietor). This use does not include "motel".

HOUSE TRAILER

See "mobile home."

INCUBATOR, BUSINESS

An organization designed to accelerate the growth and success of entrepreneurial companies through an array of business support resources and services that could include physical space, capital, coaching, common services, and networking connections.

JUNK

Any discarded material or article including, but not limited to, scrap metal, scrapped, abandoned or junked motor vehicles, machinery, equipment, paper, glass, containers, and structures. It shall not include, however, refuse or garbage kept in a proper container for the purpose of prompt disposal.

JUNKYARD

Any place where any junk as defined above is stored, disposed of, or accumulated.

LAND DEVELOPMENT

Any of the following activities:

A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:

(1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or

(2) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

B. A subdivision of land.

C. "Land development" does not include development which involves:

(1) The conversion of an existing single-family detached dwelling or single-family semidetached dwelling into not more than three residential units, unless such units are intended to be a condominium;

(2) The addition of an accessory building, including farm building, on a lot or lots subordinate to an existing principal building; or

(3) The addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For the purposes of this subsection, an "amusement park" is defined as a tract or area used principally as a

location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by the proper authorities.

LANDOWNER

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

LINE OF SIGHT

A visually unobstructed distance of two hundred seventy five (275) feet from a point measured 10' back from the edge of the intersecting cartway at an elevation of three and one half (3 1/2) feet above the road surface to a point in the center of the cartway of oncoming traffic at an elevation of three and one half (3 1/2) feet above the cartway surface or as determined by the Borough Engineer.

LOT

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

LOT AREA

The area contained within the property lines of a lot (as shown on the plat), excluding space within all streets and within all permanent drainage easements, but including the areas of all other easements.

LOT, CORNER

A lot at the junction of and abutting on two or more intersecting streets where the interior angle of intersection does not exceed 135°. A lot abutting a curved street shall be deemed a corner lot if the tangents to the curve at the points of intersection of the side lot lines with the street lines intersect at an interior angle of less than 135°.

LOT COVERAGE

The percentage of the lot area that is occupied by the building area.

LOT, INTERIOR

Any lot other than a corner lot.

LOT LINE

Any boundary of a lot.

LOT LINE, FRONT

That boundary of a lot which is along an existing or proposed street right-of-way. Corner lots and through lots shall have two front lot lines.

LOT LINE, REAR

The lot line generally opposite to the front lot line; if the rear lot line is less than 10 feet in length, or if the lot comes to a point in the rear, the rear lot line shall be deemed to be a line parallel to the front lot line not less than 10 feet long lying farthest from the front lot line.

LOT LINE, SIDE

Any boundary of a lot which is not a front or a rear lot line.

LOT, THROUGH

A lot extending between and having frontage on two generally parallel streets.

LOT WIDTH

The average horizontal distance between the side lot lines, measured along the building setback line and parallel to the front lot line.

MAIN FLOOR

The largest area found by the projection of a horizontal plan through the livable floor area which is enclosed by the exterior walls of the building.

MANUFACTURING

Any process whereby the nature, size, or shape of articles or raw materials are changed, or where articles are assembled or packaged.

MASSAGE

Any method of treating superficial soft parts of the human body for remedial, hygienic or other purposes, consisting of rubbing, stroking, kneading or any similar treatment accomplished by hand or by the use of any instrument. (Note: this definition shall not include the treatment of any person which is based upon the signed order of a licensed physician, osteopath, chiropractor or registered physical therapist.)

MASSAGE PARLOR

Any establishment, building or structure, or portion thereof, located within the Borough which is open to members of the general public, with or without the payment of a fee, at which any person, firm, association or corporation engages in or carries on the practice of massage.

MEMBERSHIP CLUB AND CAMP

Buildings for lodging, eating, and sanitary facilities, and land owned, leased, or used principally by a private, fraternal, or social organization for such activities as hunting, fishing, scouting, etc.

MIXED COMMERCIAL/RESIDENTIAL STRUCTURES

A structure housing commercial enterprises exclusively on the first floor and residential uses on the second and higher floors as permitted within the applicable zoning district and planned, constructed and managed as a total entity.

MOBILE HOME

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

MOBILE HOME LOT

A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home.

MOBILE HOME PARK

A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes.

MODEL STUDIO

Any premises on which there is conducted the business of furnishing figure models who pose in the nude for the purpose of being observed or viewed by any person or of being sketched, painted, drawn, sculptured, photographed or otherwise similarly depicted for persons who pay a fee, or other consideration or compensation, or a gratuity for the right or opportunity so to depict the figure model, or for admission to, or for permission to remain upon, or as a condition for remaining upon the premises.

MOTEL

An establishment providing temporary, overnight lodging accommodations for transient guests for compensation, in sleeping rooms/units that each has separate access directly to the outside and which may provide such additional supporting services as restaurants, recreation facilities, and living quarters for the resident manager or proprietor. This use does not include “hotel”.

MULTIPLE OCCUPANCY BUILDINGS

A building used for more than one commercial use or combination commercial-residential use. This term does not include Mixed Commercial / Residential Structures.

MULTI-PURPOSE VENUE

An area or structure involving indoor or outdoor seating or space for live performances, sports events, cultural events, meetings, or conventions (including but not limited to consumer trade shows, association conferences and meetings).

MUNICIPAL AUTHORITY

A body politic and corporate created pursuant to the Act of May 2, 1945 (P.L. 382, No. 164), known as the "Municipality Authorities Act of 1945."¹²¹

MUNICIPALITY

Includes cities, boroughs, first class townships and second class townships.

MUSEUM

An establishment where objects of artistic, historical, or scientific importance or interest are kept, studied, and displayed.

NATURAL AREA

Any area along the one side of a rural highway where the distance between two commercial structures, establishments or uses is one measured mile or more, or any area of historic or scenic value so designated by an appropriate indication upon the Official Zoning Map which is a part of this chapter.

NO IMPACT HOME BASED BUSINESS

Refer to “No-Impact Home-Based Business” Section 107 of the Pennsylvania Municipalities Planning Code, as amended from time to time.

NONCONFORMING LOT

A lot the area or dimension of which was lawful prior to the adoption or amendment of this chapter, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption or amendment.

NONCONFORMING STRUCTURE

A structure or part of a structure manifestly not designed to comply with the use or extent of use provisions of this chapter or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of this chapter or amendment or prior to the application of this chapter or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

NONCONFORMING USE

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

NONRESIDENTIAL STRUCTURE

A structure which is used for any purpose other than to be occupied for living purposes. Nursing homes and continuing care facilities shall not constitute nonresidential structures. Assisted living facilities shall constitute a residential structure.

NURSING HOME

A facility that provides skilled or intermediate nursing care, which is: professionally supervised nursing care and related medical and other health services provided for a period exceeding 24 hours to an individual not in need of hospitalization, but whose needs are above the level of room and board and can only be met in a long-term care nursing facility on an inpatient basis because of age, illness, disease, injury, convalescence or physical or mental infirmity. The term includes the provision of inpatient services that are needed on a daily basis by the resident, ordered by and provided under the direction of a physician, and which require the skills of professional personnel, such as, registered nurses, licensed practical nurses, physical therapists, occupational therapists, speech pathologists or audiologists.

OBSCENE OR ADULT FILM

Any film or motion picture which:

A. The average person applying contemporary community standards would find, when considered as a whole, that the subject matter appeals to the prurient interest;

B. The subject matter depicts, or describes in a patently offensive way, sexual conduct, specified anatomical areas, or specified sexual activities, of a type described in this chapter; and

C. The subject matter, taken as a whole, lacks serious literary, artistic, political, educational or scientific value.

OFFICIAL MAP

The map established by the Borough Council under Article **IV** of the Pennsylvania Municipalities Planning Code showing the location and width of streets, highways, parkways, public parks, and playgrounds.

ON SITE PRODUCTION

The particular action or process of manufacturing components or raw materials at the same particular site/locale.

OUTDOOR CAFÉ/DINING

An accessory use to a restaurant, tavern/bar, or other similar establishment that includes an outdoor seating component.

PARK, PLAYGROUND, AND OTHER NON-COMMERCIAL OUTDOOR RECREATIONAL USES

A use of land, which may include accessory buildings and structures, for active and/or passive outdoor recreation for the purpose of pleasure, leisure, fellowship, or exercise, commonly involving a sporting activity, camping, hiking, jogging, bicycling, swimming, picnicking, and other related activities which is open to the public. A park may include amenities such as ballfields, tennis courts, trails, playground equipment, restrooms, picnic tables, cooking grills, and similar facilities. For purposes of this Chapter, parks shall not include uses that are considered to be commercial recreational uses.

PARKING AREA

A lot or part thereof used for the storage or parking of motor vehicles, with or without the payment of rent or charges in money or other consideration.

PARKING SPACE

A stall or berth which is arranged and intended for parking of one motor vehicle in a garage or parking area.

PARKING, OFF-STREET

A temporary storage (surface or structure) for a motor vehicle that is directly accessible to an access aisle and that is not located on a dedicated right-of-way, and is located upon the same lot as a principal use or, in the case of joint parking, within close proximity.

PARKING, ON-STREET

A temporary storage (surface) for a motor vehicle within a dedicated right-of-way, excluding alleys.

PARKING, SHARED

Joint use of a parking area on a single lot by more than one (1) use.

PAWNBROKER

Any person who:

A. Engages in the business of lending money on the deposit or pledge of personal property, other than chosen in action, securities, or written evidence of indebtedness; or

B. Purchases personal property with an expressed or implied agreement or understanding to sell it back at a subsequent time at a stipulated price; or

C. Lends money upon goods, wares, or merchandise pledged, stored, or deposited as collateral security.

PAVED

Having been surfaced with hard material, such as concrete, asphalt, or brick, for the purpose of sustaining vehicular traffic.

PERMANENT OCCUPANCY

Spending one night or more per month in a lodging or dwelling unit during more than four consecutive months.

PLANNED DEVELOPMENT

A tract of land under single ownership or agreement, planned and developed as a permanent, year-round development unit, utilizing a reasonable degree of flexibility in the placement, bulk, and interrelationship of buildings and uses, while at the same time maintaining adequate overall intensity of land use, density of population, and amounts of light, air access, and open space.

PLANTING STRIP

A specific area of vegetative growth used to separate parking areas from adjoining lots, and to separate parking areas from the public right-of-way, as required in this Chapter.

PROFESSIONAL OFFICE

An establishment in which one (1) or more persons are employed in the management, direction or conducting of business/commerce and whose staff/employees serve clients who seek advice and consultation regarding business/commerce. A business office may include the administrative, corporate or professional offices for profit, non-profit or charitable organizations, but also includes contractors (office only, not including stock

yards or tool storage areas), real estate, stock and bond brokers, accountants, adjusters, appraisers, utility companies, attorneys, clergy, teachers, architects, engineers, landscape architects, planners, interior designers, insurance agents, and similar office-oriented uses.

PUBLIC GROUNDS

Includes:

A. Parks, playgrounds, trails, paths and other recreational areas and other public areas;

B. Sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities; and

C. Publicly owned or operated scenic and historic sites.

PUBLIC HEARING

A formal meeting held pursuant to public notice by the Borough Council or Planning Commission, intended to inform and obtain public comment, prior to taking action in accordance with this chapter.

PUBLIC MEETING

A forum held pursuant to notice under the Act of July 3, 1986 (P.L. 388, No. 84), known as the "Sunshine Act," 53 P.S. § 271 et seq.^(a)

PUBLIC NOTICE

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

RECREATIONAL, COMMERCIAL

An establishment operated as a gainful business, open to the public, for the purpose of leisure time activities, public recreation or entertainment, but not limited to, gymnasium, health and fitness club, skating rink, tennis courts, assembly hall, arena, swimming pool, bowling alley, etc. when operated within a completely enclosed building or structure or outdoors. This use includes, "health club or health spa".

RECREATIONAL VEHICLE

A vehicular type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers, house trailers, boats, boat trailers and self-propelled motor homes.

REFUSE SITE

A lot or land or part thereof used primarily for disposal by abandonment, dumping, sanitary land fill, burial, burning, incineration or any other means for whatever purpose of garbage, offal, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

REPORT

Any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or

determination. All reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to any proceeding upon request, and copies thereof shall be provided at cost of reproduction.

RESERVE STRIP

A parcel of ground in separate ownership separating a street from other adjacent properties, or from other streets.

RESTAURANT

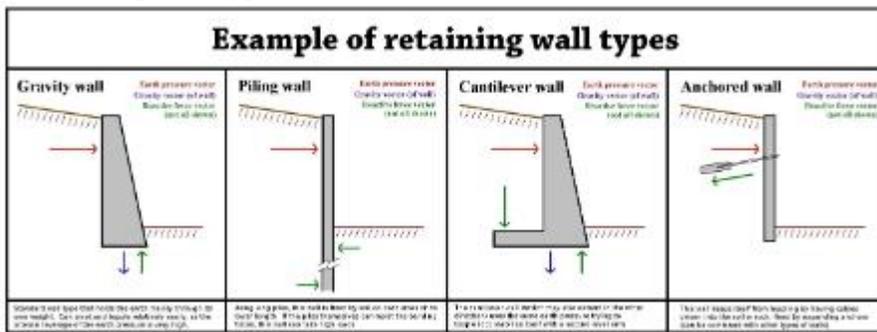
An establishment that provides food and drink to patrons and that routinely involves the consumption of at least a portion of on premise food and/or drink. A restaurant may include the accessory sale of alcoholic beverages, and carry-out and delivery services.

RETAIL BUSINESS

An establishment which sells goods or merchandise to the general public for personal and household consumption and provides accessory repair services for goods or merchandise that is similar to that which is sold on the premises and render services incidental to the sale of such goods.

RETAINING WALL

A man-made structure constructed primarily of brick, block, or stone that is designed and constructed to resist the lateral pressure of soil where there is a desired change in ground elevation that exceeds the horizontal plane to which soil can be piled without slumping. The elevation of the top of the retaining wall shall not exceed the elevation of the soil being retained by the retaining wall by more than one foot. The following figure depicts examples of retaining wall types:



RETIREMENT COMMUNITY

A planned development designed to meet the needs of, and exclusively for, the residence of senior citizens. This use does not include uses such as “continuing care retirement facility”, “nursing home” or “assisted living residence”.

REVIEW

Wherever in this state the Borough Planning Commission or other Borough official body possesses such jurisdiction, the action of "review" shall also include "review and approval," or, if necessary, "review and disapproval."

RIGHT-OF-WAY

The total width of any land reserved or dedicated as a street, alley, crosswalk or for other public or semipublic purposes.

ROADWAY

Travelway. See "cartway."

SCHOOL, COMMERCIAL

Any school conducted for profit for such instruction as business, art, drama, music, handicraft, dancing, or other similar type low impact uses conducted within a completely enclosed building.

SCHOOL, PUBLIC OR PRIVATE

Any public, sectarian, or private non-profit establishment approved by the Commonwealth of Pennsylvania offering formal academic instruction and services for state-required or largely state-funded programs at the kindergarten, elementary, and secondary levels. This term shall not include those uses considered commercial schools.

SCHOOL, VOCATIONAL

Same as public or private school except that the primary activity is training in a trade or vocation, which may be conducted wholly or partially outside of an enclosed structure. This term shall not include those uses considered commercial schools.

SCREENING

A barrier between adjacent properties, uses, and/or zoning districts composed of a mixture of landscaping, trees, berms, shrubs, fences, walls and/or other similar type materials that is intended to mitigate negative impacts such as noise, visual, airborne issues of the more intense/dense uses and/or zoning district on the less intense/dense use and/or zoning district. Screening shall be continuously maintained as long as the use requiring the screening is located at the property. Maintenance shall include, as applicable, repairing, replacing, reconstructing, trimming, pruning, painting and other maintenance activities as necessary. Said screening shall meet the specific requirements of the Subdivision and Land Development Ordinance and any criteria set forth in this Chapter.

SECRETARY

Unless otherwise indicated, Secretary of the Borough Planning Commission.

SERVICE STATION

Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail. Uses permissible at a service station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in filling stations. A service station is not a repair garage nor a body shop.

SEWAGE DISPOSAL SYSTEM, CENTRALIZED

A public or private utility system designed to collect, centrally treat, and dispose of sewage from customers, in compliance with Pennsylvania Department of Environmental Protection regulations or regulations of the Borough, whichever may be more stringent.

SEWAGE DISPOSAL SYSTEM, ON-SITE

Any structure designed to biochemically treat sanitary sewage within the boundaries of an individual lot.

SEXUAL CONDUCT

Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, and patently offensive representations or descriptions of masturbation, excretory functions and lewd exhibition of the genitals.

SHOPPING CENTER (General)

Any combination of business, non-residential establishments, and other related establishments that are permitted within the applicable zoning district, in a single building or in separate buildings that are planned, constructed, and managed as a total entity. All general shopping centers shall be located in a complex that is planned, designed, developed, owned or managed as a single unity with internal vehicle circulation (public or private) off-street parking and loading provided on the property. Provisions for goods delivery separated from customer access, pedestrian access, aesthetic considerations and protection from the elements and landscaping and signage in accordance with an approved land development plan and complying with the Borough of Greencastle Ordinances.

SHOPPING CENTER (Town)

This definition is specific to the Mixed Use and Community Commercial District. All town shopping centers shall be located within a single building or in a complex that is planned, designed, developed, owned or managed as a single unit. Provisions shall be made for coordinated goods delivery, pedestrian access, aesthetic considerations, landscaping and signage. Refer to “Mixed Use/Residential Structures” definition.

SIGHT DISTANCE

The length of road visible to the driver of a vehicle at any given point in the road when viewing is unobstructed by traffic.

SIGN

Any material, structure or device, or part thereof, composed of lettered or pictorial matter placed, when used or located out of doors or outside or on the exterior of any building, including window display area, for display of an advertisement, announcement, notice, directional matter or name, and includes sign frames, billboards, sign boards, signs on vehicles, trailers or other mobile devices, painted wall signs, hanging signs, illuminated signs, pennants, fluttering devices, strings of lights, projection signs or ground signs, and shall also include an announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interest of any person or business when the same is placed in view of the general public. However, the following signs shall be excluded from the application of this chapter:

A. Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.

B. Flags and insignias of any government or governmental agency, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event; except when displayed in connection with commercial promotion.

C. Legal notices, identification, informational, or directional signs erected or required by governmental bodies.

D. Integral decorative or architectural features of buildings, including letters and trademarks except moving lights.

E. Signs directing and guiding traffic and parking on any property, but bearing no advertising matter.

F. Signs which are solely devoted to prohibiting trespassing, hunting, or fishing.

G. Signs on vehicles, trailers, or other mobile devices or storage containers or cubes that are not being utilized primarily as signs. The duration that a vehicle, trailer or other mobile device or storage container or cube is stationary, its location on the property in relation to public view, and other factors indicating that the primary use is as a sign.

SIGN AREA

All faces of a sign measured as follows:

A. When such sign is on a plate or framed or outlined, all of the area of such place or the area enclosed by such frame or outline shall be included.

B. When such sign consists only of letters, designs or figures engraved, painted, projected or in any manner affixed on a wall, the total area of such signs shall be deemed the area within which all of the matter of which such sign consists may be inscribed.

C. Structural members and supports not bearing advertising matter shall be excluded from the sign area.

SIGN, AWNING

A sign that is located on the face of an awning that identifies the business, service or industrial enterprise or the services, products, or activities provided by a business, service, or industrial enterprise that is displayed upon the lot or premises occupied by such enterprise. The face of the awning shall only include any portion of the awning that is parallel with the face of the building to which it is attached and shall not include any diagonal, dome, barrel, or concave portion of the awning.



SIGN, BUSINESS IDENTIFICATION

Any sign, symbol, trademark, structure or similar device used to identify the product made or the activity pursued by an individual, business, service, commercial or industrial enterprise which is displayed upon the lot or premises occupied by such an enterprise for the purpose of apprising the public of the location of such enterprise and the type of activity in which it is engaged.

SIGN, COMMERCIAL ADVERTISING OR BILLBOARD

An advertising sign, structure or symbol erected and maintained by an individual or corporation engaged in the sale or rental for profit of space thereon to a clientele of manufacturing, service or commercial enterprises, upon which space there is displayed by means of painting, posting or other method, advertising copy describing a wide variety of projects or services which are not necessarily made, produced, assembled, stored or sold

from the lot or premises upon which the advertisement is displayed. This definition does not include a scoreboard.

SIGN, DIRECTIONAL

An advertising sign or device intended to direct or point toward a place, or one that points out the way to either an unfamiliar or a known place that obviously could not be easily located without such a sign or device. Each such sign shall not exceed six square feet in total area.

SIGN, ELECTRONIC MESSAGE CENTER

Any sign or portion thereof that displays electronic images, graphics, or pictures with or without textual information, using LEDs, fiber optics, light bulbs, or other illumination devices or combination thereof within the display area, and where a static message change sequence is accomplished immediately or by means of fade.

SIGN, ILLUMINATED

Any sign illuminated by electricity, gas or other artificial light, including reflective or phosphorescent light. An illuminated sign shall include lighting devices such as any light, string of lights, or group of lights located or arranged so as to cast illumination on a sign. This definition does not include a scoreboard.

SIGN, INFORMATION KIOSK

Any sign, structure or symbol erected and maintained by the Borough of Greencastle or a nonprofit corporation engaged in economic development upon which said sign, structure or symbol is utilized to dispense information, pamphlets, leaflets, magazines, guides, publications, forms and other printed material regarding the Borough of Greencastle and the surrounding area. An information kiosk shall not be illuminated.

SIGN, OFFICIAL

Any sign, symbol or device erected and maintained by a state, county, or municipal governmental agency for the purpose of informing or guiding the public or for the protection and promotion of health, safety, convenience or general welfare.

SIGN, PROJECTING

Any sign which projects from the exterior of any building.

SIGNS, NUMBER OF

For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relation of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

SIGN, SANDWICH BOARD

A temporary sign that is self-supporting and freestanding with only two visible sides that is situated immediately adjacent to a business or entity, typically on a sidewalk, which contains commercial speech regarding said business or entity. A sandwich board may not be illuminated.

SIGN, SCOREBOARD

A scoreboard is a sign designed to provide information to spectators at athletic events that may or may not contain a permanent or temporary advertising message or public service announcements located inside an enclosed athletic field located at a property owned by a municipal entity or owned and operated by a nonprofit corporation.

SIGN, SERVICE IDENTIFICATION

A sign that is accessory to a business identification sign that identifies the services, products, or activities provided by a business, service, or industrial enterprise that is displayed upon the lot or premises occupied by such enterprise. Each service identification sign shall be no larger than 25 square feet.

SITE DEVELOPMENT PLAN

A detailed engineering drawing of a proposed use on a given lot, containing, for example, property lines, a building footprint, distance between buildings, driveways, surrounding streets, and landscaped areas.

SOIL PERCOLATION TEST

A field test conducted to determine the suitability of the soil for on-site sanitary sewage disposal facilities by measuring the absorptive capacity of the soil at a given location and depth.

SOIL SURVEY

A scientific survey of soil conditions and characteristics, prepared by an engineer or soil scientist and approved or certified by the Soil Conservation Service in the county.

SPECIAL EXCEPTION

A use permitted in a particular zoning district pursuant to the provisions of this chapter and Articles VI and IX of the Pennsylvania Municipalities Planning Code, 53 P.S. §§ 10601 et seq. and 10901 et seq.

SPECIFIED ANATOMICAL AREAS

A. Human genitals, pubic region.

B. Buttocks.

C. Female breasts below a point immediately above the top of the areola.

SPECIFIED SEXUAL ACTIVITIES

A. Human male genitals in a discernibly turgid state of sexual stimulation or arousal.

B. Acts of human masturbation, sexual intercourse or sodomy.

C. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

STORY

That part of any building, exclusive of cellars but inclusive of basements, comprised between the level of one finished floor and the level of the next higher finished floor, or, if there be no higher finished floor, then that part of the building comprised between the level of the highest finished floor and top of the roof beams.

STORY, HALF

Any space partially within the roof framing, between the top of the floor beams and the structural ceiling level, where the clear height of not more than 50% of such space is seven feet six inches or more.

STREET

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

STREET LINE

The dividing line between a lot and a street.

STRUCTURAL ALTERATION

Any change in the supporting members of a building, such as beams, columns, or girders.

STRUCTURE

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

SUBDIVISION

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

TATTOO ESTABLISHMENT

Any location where tattooing (method of placing designs, letter, scrolls, figures, symbols or any other marks upon or under the skin of a human with ink or any other substance, resulting in the coloration of the skin by aid of needles or any other instrument designed to touch or puncture the skin) is engaged in or where the business of tattooing is conducted or any part thereof. For purposes of this chapter, "tattoo parlor" falls within this definition.

TAVERN/BAR

An establishment which serves primarily alcoholic beverages for mostly immediate on-premises consumption and which is licensed by the Pennsylvania Liquor Control Board, but may also include the incidental sale of food. Taverns and bars shall not be construed to be a sexually oriented business and/or related use as defined within this Chapter.

THEATRE, INDOOR

An establishment with a building or portion thereof devoted to the showing of movie pictures or theatrical productions on a commercial basis. This use does not include "Adult Motion-Picture Theatre".

TOURIST HOME

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

TRAVELWAY

See "cartway."

TREATMENT CENTER

A use, other than a prison or a hospital, providing housing for three (3) or more unrelated person or outpatient services to persons who need specialized housing, treatment and/or counseling because of: Criminal rehab (halfway house); current addiction to alcohol or a controlled substance that was used in an illegal manner; and/or a type of mental illness or other behavior that causes a person to be a threat to the physical safety of others.

UNIVERSITY/COLLEGE

An educational establishment, authorized by the Commonwealth of Pennsylvania as such to award associate, baccalaureate or higher degrees, including principal uses for classrooms, libraries, auditoriums, gymnasiums, stadiums, administrative offices, dormitories and dining facilities, boarding houses, maintenance and operating facilities as well as ancillary uses (i.e. research facilities, retail services and businesses) that support student, faculty and staff needs.

USE, ACCESSORY

A use customarily incidental and subordinate to the main use on a lot, whether such accessory use be conducted in a principal or accessory building.

VARIANCE

Relief granted pursuant to the provisions of this chapter and Articles **VI** and **IX** of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101 et seq.

VEHICLE, DISMANTLED OR NONOPERABLE

A dismantled or nonoperable vehicle is one that does not have a current inspection sticker and current license.

VETERINARY OFFICE

An establishment used primarily for the treatment, by a veterinarian, of small animals and household pets and the outpatient treatment of large animals. No outdoor keeping or boarding of animals is permitted.

WALL

A man-made barrier consisting primarily of brick, concrete, or cinder block placed or arranged as a line of demarcation to separate or enclose different areas or uses, but not including such barriers four feet or less in height whose primary purpose is to serve as the base or foundation of a fence. The term "wall" does not include retaining wall nor does it include barriers of landscaped materials, including hedges.

WATER DISTRIBUTION SYSTEM, CENTRALIZED

A public or private utility system designed to transmit water from a common source to customers, in compliance with Pennsylvania Department of Environmental Protection regulations or regulations of the Borough, whichever may be more stringent.

WATER DISTRIBUTION SYSTEM, ON-SITE

A system for supplying and distributing water to a single dwelling or other building from a source located on the same lot.

YARD, FRONT

An unoccupied ground area fully open to the sky between the street line or by the street line established by the official map of the Borough, or an approved subdivision plat and a line drawn parallel thereto.

YARD, REAR

An unoccupied ground area fully open to the sky between the rear lot line and a line drawn parallel thereto.

YARD, SIDE

An unoccupied ground area fully open to the sky between any property line other than a street or rear lot line, and a line drawn parallel thereto between the front and rear yards.

ZONING ORDINANCE

The officially adopted Borough Zoning Ordinance with any and all amendments thereto.

Article XI. Appeals.

Section 205-52 Zoning Appeals.

The proceedings set forth in this article shall constitute the exclusive mode for securing review of this chapter, or decision, determinations or orders issued by Borough Council, its agencies or officers pursuant to this chapter.

Section 205-53 Venue.

Appeals to a court shall be taken to the Court of Common Pleas of Franklin County.

Section 205-54 Validity of chapter; procedural questions.

Questions of an alleged defect in the process of enactment or adoption of this chapter and map shall be raised by an appeal taken directly from the action of the Borough Council to the court filed not later than 30 days from the effective date of this chapter and map.

Section 205-55 Validity of ordinance; substantive questions.

- A. A landowner who, on substantive grounds, desires to challenge the validity of an ordinance or map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest shall submit the challenge either:
 - 1. To the Zoning Hearing Board under § 205-35A(1) of this chapter; or
 - 2. To the Borough Council under § 205-35B(4), together with a request for a curative amendment under § 609.1 of the Municipalities Planning Code (hereafter "MPC"), 53 P.S. § 10609.1.
- B. Persons aggrieved by a use or development permitted on the land of another by an ordinance or map, or any provision thereof, who desires to challenge its validity on substantive grounds shall first submit their challenge to the Zoning Hearing Board for a decision thereon under § 205-35A(1) of this chapter.
- C. The submissions referred to in Subsections A and B shall be governed by the following:
 - 1. In challenges before the Zoning Hearing Board, the challenging party shall make a written request to the Board that it hold a hearing on its challenge. The request shall contain the reasons for the challenge. Where the landowner desires to challenge the validity of such ordinance and elects to proceed by curative amendment under § 609.1 of the MPC, 53 P.S. § 10609.1, his application to the Borough Council shall contain, in addition to the requirements of the written request hereof, the plans and explanatory materials describing the use or development proposed by the landowner in lieu of the use or development permitted by the challenged ordinance or map. Such plans or other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for

the issuance of a permit, so long as they provide reasonable notice of the proposed use or development and a sufficient basis for evaluating the challenged ordinance or map in light thereof. Nothing herein contained shall preclude the landowner from first seeking a final approval before submitting his challenge.

2. If the submission is made by the landowner to the Borough Council under Subsection A(2), the request also shall be accompanied by an amendment or amendments to the ordinance proposed by the landowner to cure the alleged defects therein.
3. If the submission is made to the Borough Council, the Borough Solicitor shall represent and advise it at the hearing or hearings referred to in § 909.1(b)(4) of the MPC, 53 P.S. § 10909.1(b)(4).
4. The Borough Council may retain an independent attorney to present the defense of the challenged ordinance or map on its behalf and to present their witnesses on its behalf.
5. Based upon the testimony presented at the hearing or hearings, the Borough Council or the Zoning Hearing Board, as the case may be, shall determine whether the challenged ordinance or map is defective, as alleged by the landowner. If a challenge heard by the Borough Council is found to have merit, the Borough Council shall proceed as provided in § 609.1 of the MPC, 53 P.S. § 10609.1. If a challenge heard by the Zoning Hearing Board is found to have merit, the decision of the Zoning Hearing Board shall include recommended amendments to the challenged ordinance which will cure the defects found. In reaching its decision, the Zoning Hearing Board shall consider the amendments, plans and explanatory material submitted by the landowner and shall also consider:
 - a. The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.
 - b. If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of person otherwise unlawfully excluded by the challenged provisions of the ordinance or map.
 - c. The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features.
 - d. 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 are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts.
 - e. The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

6. The Borough Council or the Zoning Hearing Board, as the case may be, shall render its decision within 45 days after the conclusion of the last hearing.
 7. If the Borough Council or the Zoning Hearing Board, as the case may be, fails to act on the landowner's request within the time limits referred to in Subsection C(6), a denial of the request is deemed to have occurred on the 46th day after the close of the last hearing.
- D. The Zoning Hearing Board or the Borough Council, as the case may be, shall commence its hearing within 60 days after the request is filed unless the landowner requests or consents to an extension of time.
- E. Public notice of the hearing shall include notice that the validity of the ordinance or map is in question and shall give the place where and the times when a copy of the request, including any plans, explanatory material or proposed amendments may be examined by the public.
- F. The challenge shall be deemed denied when:
1. The Zoning Hearing Board or Borough Council, as the case may be, fails to commence the hearing within the time limits set forth in Subsection D.
 2. The Borough Council notifies the landowner that it will not adopt the curative amendment.
 3. The Borough Council adopts another curative amendment which is unacceptable to the landowner.
 4. The Zoning Hearing Board or the Borough Council, as the case may be, fails to act on the request 45 days after the close of the last hearing on the request, unless the time is extended by mutual consent by the landowner and the Borough.
- G. Where a curative amendment proposal is approved by the grant of a curative amendment, application by the Borough Council pursuant to § 909.1(b)(4) of the MPC, 53 P.S. § 10909.1(b)(4), or a validity challenge is sustained by the Zoning Hearing Board pursuant to § 909.1(a)(1) of the MPC, 53 P.S. § 10909.1(a)(1), or the court acts finally on appeal from denial of a curative amendment proposal or a validity challenge, and the proposal or challenge so approved requires a further application for subdivision or land development, the developer shall have two years from the date of such approval to file an application for preliminary or tentative approval pursuant to Article V or VII of the MPC, 53 P.S. § 10501 et seq. and 10701 et seq. Within the two-year period, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. Upon the filing of the preliminary or tentative plan, the provisions of § 508(4) of the MPC, 53 P.S. § 10508(4), shall apply. Where the proposal appended to the curative amendment application or the validity challenge is approved but does not require further application under any subdivision or land development ordinance, the developer shall have one year within which to file for a building permit. Within the one-year period, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or

plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. During these protected periods, the court shall retain or assume jurisdiction for the purpose of awarding such supplemental relief as may be necessary.

Section 205-56 Procedure to obtain preliminary opinion.

In order not to unreasonably delay the time when a landowner may secure assurance that the ordinance or map under which he proposed to build is free from challenge, and recognizing that the procedure for preliminary approval of his development may be too cumbersome or may be unavailable, the landowner may advance the date from which time for any challenge to the ordinance or map will run under § 914.1 of the MPC, 53 P.S. § 10914.1, by the following procedure:

- A. The landowner may submit plans and other materials describing his proposed use or development to the Zoning Officer for a preliminary opinion as to their compliance with the applicable ordinances and maps. Such plans and other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a building permit so long as they provide reasonable notice of the proposed use or development and a sufficient basis for a preliminary opinion as to its compliance.
- B. If the Zoning Officer's preliminary opinion is that the use or development complies with the ordinance or map, notice thereof shall be published once each week for two successive weeks in a newspaper of general circulation in the Borough. Such notice shall include a general description of the proposed use or development and its location, by some readily identifiable directive, and the place and times where the plans and other materials may be examined by the public. The favorable preliminary approval under § 914.1 of the MPC, 53 P.S. § 10914.1, and the time therein specified for commencing a proceeding with the Board shall run from the time the second notice thereof has been published.

Article XII. Legal Status.

Section 205-57 Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. Except where specifically provided to the contrary, it is not intended by this chapter to repeal, abrogate, annual or in any way impair or interfere with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of buildings, structures, shelter or premises; nor is it intended by this chapter to interfere with or abrogate or annual any easement, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of a building or premises, or requires larger open spaces than are imposed or required by any

other statute, ordinance, rule, regulation, or permit, or by any easement, or agreement, the provisions of this chapter shall control.

Article XIII. Floodplain Areas.

Section 205-58 Conformity Required.

Any proposed use occurring within a floodplain as identified in Chapter 122, the Floodplain Management Ordinance, as amended from time to time, shall be in strict conformity with the provisions of the Zoning Ordinance and the Floodplain Management Ordinance.

Section 205-59 Establishment of floodplain overlay districts.

A. Overlay concept.

1. The floodplain districts described in the Floodplain Management Ordinance shall be overlays to the existing underlying districts as shown on the Official Zoning Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions, provided they are a permitted use in such underlying district.
2. Where there happens to be any conflict between the provisions or requirements of any of the floodplain provisions or requirements of any of the floodplain districts and those of any underlying district, the more restrictive provisions shall apply.

B. Zoning map. The boundaries of the floodplain districts are established as incorporated into the Greencastle Borough Zoning Map.

Section 205-60 Variances within floodplain districts.

- A. General. If compliance with any of the requirements of this article or the use requirements of the Floodplain Management Ordinance would result in an exceptional hardship for a prospective builder, developer, or landowner, the Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements.

SECTION III: **REPEALER.** All provisions of previous Ordinances of the Borough of Greencastle which are contrary to this Ordinance are expressly repealed.

SECTION IV: **SEVERABILITY.** The provisions of this Ordinance are severable and if any of its sections, clauses, or sentences shall be held illegal, invalid, or unconstitutional, such provisions shall not affect or impair any of the remaining sections, clauses or sentences.

SECTION V: **EFFECTIVE DATE.** This Ordinance shall take effect immediately.

ENACTED, ORDAINED, AND APPROVED this _____ day of _____, 2018.

Borough Council of the Borough of
Greencastle, Franklin County, Pennsylvania

By: _____
Frank L. Webster, Jr.,
Council President

ATTEST:

Secretary

Ben Thomas Jr.,
Mayor of the Borough of Greencastle