

MARTINSBURG BOROUGH
ZONING ORDINANCE

ORDINANCE NO. 356 OF 1972

AS AMENDED BY
ORDINANCE NO. 482 OF 1993

AS AMENDED BY
ORDINANCE 547 OF 2004

(ADVERTISED REVISION 2/9/04)

TABLE OF CONTENTS

	PAGE
ORDINANCE NO. 547	4
ARTICLE I GENERAL PROVISIONS	
Section 101. Short Title.....	4
Section 102. Purpose.....	4
Section 103. Community Development Objectives.....	4
Section 104. Declaration of Conformance.....	5
Section 105. Zoning Officer.....	5
Section 106. Zoning Hearing Board.....	5
Section 107. Interpretation.....	5
ARTICLE II DEFINITION OF TERMS	
Section 201. Application and Interpretation.....	6
Section 202. Definitions.....	6-10
ARTICLE III DESIGNATION OF DISTRICTS	
Section 301. Districts.....	11
Section 302. Zoning Map.....	11
Section 303. District Boundaries.....	11
Section 304. Interpretation of Boundaries.....	11
Section 305. Use Adjustment on District Boundaries.....	11
ARTICLE IV DISTRICT REGULATIONS	
R-S RESIDENTIAL - SUBURBAN DISTRICT	
Section 401. District Purpose.....	12
Section 402. Basic Use Regulations.....	12
Section 403. Basic Spatial Regulations.....	13-14
R-U RESIDENTIAL - URBAN DISTRICT	
Section 411. District Purpose.....	15
Section 412. Basic Use Regulations.....	15-16
Section 413. Basic Spatial Regulations.....	16-17
T-C TOWN CENTER DISTRICT	
Section 421. District Purpose.....	18
Section 422. Basic Use Regulations.....	18
Section 423. Basic Spatial Regulations.....	19-20
M-C MANUFACTURING - COMMERCIAL DISTRICT	
Section 431. District Purpose.....	21
Section 432. Basic Use Regulations.....	21
Section 433. Basic Spatial Regulations.....	22-23

I-P INDUSTRIAL PARK DISTRICT

Section 441. District Purpose..... 24
Section 442. Basic Use Regulations..... 24-25
Section 443. Basic Spatial Regulations..... 25-26

ARTICLE V. GENERAL REGULATIONS

Section 501. Accessory Buildings..... 27
Section 502. Clubs, Lodges and Fraternal
Organizations..... 27
Section 503. Drainage..... 27-28
Section 504. Floor Area, Habitable..... 28
Section 505. Height Regulations..... 28
Section 506. Home Occupations..... 28
Section 507. Junk Yards..... 29
Section 508. Lights..... 29
Section 509. Lot of Record..... 29
Section 510. Mobile Home Parks..... 29
Section 511. Multi-Family Dwellings for
Couples and/or Individuals..... 30
Section 512. Non-Conforming Uses..... 30-31
Section 513. Off-Street Parking, Loading
and Unloading..... 31-34
Section 514. Planned Residential Development..... 34
Section 515. Performance Standards..... 35-38
Section 516. Recreation Vehicle Parks..... 38
Section 517. Signs..... 39-41
Section 518. Special Uses..... 41
Section 519. Uses Not Provided For..... 41
Section 520. Vehicle Service Stations..... 42
Section 521. Vision Obstruction..... 42
Section 522. Walls and Fences..... 42
Section 523. Yards..... 43
Section 524. Swimming Pools, Spas and Hot Tubs..... 43-44
Section 525. Radio, Television or Satellite Dish Antennas..... 44-45

ARTICLE VI ADMINISTRATION AND ENFORCEMENT

Section 601. Zoning Officer..... 46
Section 602. Zoning Hearing Board..... 46
Section 603. Permits, Applications and
Certificates..... 46-48
Section 604. Special Exceptions and Variances..... 48
Section 605. Fees..... 49
Section 606. Violations..... 49-50
Section 607. Appeals to Court..... 50

ARTICLE VII AMENDMENTS, VALIDITY, ENACTMENT AND FEES

Section 701. Amendments..... 51
Section 702. Repealer..... 51
Section 703. Validity..... 51
Section 704. Effective Date..... 51
Section 705. Schedule of Fees..... 52

ORDINANCE NO. 356 OF 1972
AS AMENDED BY
ORDINANCE NO. 482 OF 1993

MARTINSBURG BOROUGH ZONING ORDINANCE

AN ORDINANCE PERMITTING, PROHIBITING, REGULATING, RESTRICTING AND DETERMINING THE USES OF LAND AND WATERCOURSES; THE SIZE, HEIGHT, BULK, LOCATION, CONSTRUCTION, REPAIR, MAINTENANCE, ALTERATION, RAZING, REMOVAL AND USE OF STRUCTURES; THE AREAS AND DIMENSIONS OF LAND TO BE OCCUPIED BY USES AND STRUCTURES AS WELL AS COURTS, YARDS AND OTHER OPEN SPACES AND DISTANCES TO BE LEFT UNOCCUPIED BY USES AND STRUCTURES; THE DENSITY OF POPULATION AND INTENSITY OF USE; AND PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT THEREOF WITHIN THE BOROUGH OF MARTINSBURG.

The Borough Council of the Borough of Martinsburg, County of Blair, Commonwealth of Pennsylvania, by authority of the pursuant to the provisions of the Pennsylvania Municipalities Planning Code, and any amendments and supplements thereto, do hereby ordain as follows:

ARTICLE I

GENERAL PROVISIONS

Section 101. Short Title. This Ordinance shall be known as the "Martinsburg Borough Zoning Ordinance".

Section 102. Purpose. This Ordinance is enacted for the following purposes:

- A. To promote, protect and facilitate one or more of the following: The public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, airports, the provisions of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, public grounds and other public requirements, as well as
- B. To prevent one or more of the following: Overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers. This Ordinance is made in accordance with an overall program, and with consideration for the character of the municipality, its various parts and the suitability of the various parts for particular uses and structures.

Section 103. Community Development Objectives.

This Ordinance is designed, adopted and enacted to promote and effectuate the following community development objectives:

- A. To insure the optimal use of land resources.
- B. To promote harmony among existing development, future development, and the natural environment.
- C. To provide an efficient, safe, and economical transportation system to move people and goods which will promote better communications, make better use of neighboring resources, and create a greater choice of living-working relationships for the citizenry.
- D. To increase the livability and attractiveness of the municipality through the adequate provision of a wide range of community facilities that are easily accessible to the citizenry.
- E. Provide adequate water, sewerage, and solid waste disposal services to the developed and developing areas of the municipality to insure a safe, sanitary, and attractive environment in which to live and work.

Section 104. Declaration of Conformance.

This Ordinance has been made with consideration for the character of the Borough of Martinsburg, its various parts, and the suitability of the various parts for particular uses and structures; and is in accordance with the expressed or implied community development objectives of the comprehensive plan for the development of the Borough.

Section 105. Zoning Officer.

The appointed position of Zoning Officer is hereby established for the administration of this Ordinance and said Officer shall have such powers and authority as set forth within the Pennsylvania Municipalities Planning Code and this Ordinance.

Section 106. Zoning Hearing Board.

A Zoning Hearing Board is hereby created and shall have the number of members and such powers and authority as set forth within the Pennsylvania Municipalities Planning Code and this Ordinance. The duly established Zoning Hearing Board may, from time to time, be herein referred to as the Board and unless otherwise clearly indicated, the term "Board" shall refer to such Zoning Hearing Board.

Section 107. Interpretation.

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of health, safety, morals, and the general welfare of the Borough and its citizens. It is not the intent of this Ordinance to interfere with or abrogate or annul any rules or regulations previously adopted or permits previously issued by the Borough, which are not in conflict with any provisions of this Ordinance, nor is it the intent of this Ordinance to interfere with or abrogate or annul any easements, covenants, building restrictions or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of the buildings or premises or upon the height of the building, or requires a larger open space than is imposed or required by such ordinance, rules, regulations, or permits, or by easements, covenants, building restrictions or agreements, the provisions of this Ordinance shall control.

ARTICLE II

DEFINITION OF TERMS

Section 201. Application and Interpretation.

The words, terms and phrases set forth under Section 202 are defined in order to facilitate the interpretation of this Ordinance for administrative purposes and in the carrying out of duties by appropriate officers and by the Board. Unless otherwise expressly stated, words used in the present tense include the future; words used in the singular include the plural; the word PERSON includes a profit or non-profit CORPORATION, COMPANY, PARTNERSHIP, ASSOCIATION, or INDIVIDUAL; the words USED or OCCUPIED as applied to any land or building include the words INTENDED, ARRANGED, or DESIGNED TO BE USED OR OCCUPIED; the word BUILDING includes STRUCTURE; the word LOT includes PLOT or PARCEL; and the word SHALL is always mandatory.

Section 202. Definitions.

For the purpose of this Ordinance, the following words, terms and phrases have the meaning herein indicated:

ACCESSORY BUILDINGS AND STRUCTURES: A building or structure subordinate to and detached from the principal building on the same lot and used for purposes incidental to the principal building.

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

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

ALTERATIONS: As applied to a building or structure, any change or rearrangement in the construction or use, or an enlargement, whether horizontally or vertically, or the moving from one location or position to another.

ALTERATIONS, STRUCTURAL: Any change to or addition of supporting members of a building or structure, such as bearing walls, columns, beams, or girders.

APARTMENT, CONVERSION: A multiple-family dwelling constructed by converting an existing building into apartments for more than one family, without substantially altering the exterior of the building.

AREA, BUILDING: The total area taken on a horizontal plane at a level of the ground surrounding the main building and all accessory structures, exclusive of uncovered porches, terrace, and steps.

BASEMENT: A story partly underground but having one-half or more of its height above the average level of the adjoining ground.

BUILDING: Any structure on a lot, having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals, or chattels.

BUILDING LINE: A line parallel to the front, side, or rear lot line established to provide the required yard and building setback.

BUILDING, PRINCIPAL: A building in which is conducted the major or predominate use of the lot on which it is located.

CELLAR: A story partly underground and having more than one-half of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the number of stories.

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

COVERAGE: The percentage of the lot area covered by the area of all buildings and structures thereon.

DWELLING: A building or structure designed for living quarters for one or more families, including mobile homes and modular housing, resting directly on and securely anchored to a concrete or bonded masonry foundation extending below the frost level and supporting the entire perimeter or a concrete slab so supported; but not including hotels, rooming houses, or other accommodations used for transient occupancy, or recreation vehicles, tents, converted vehicles, or foundation or other make-shift structures.

DWELLING UNIT: One or more rooms used for living and sleeping purposes, having a kitchen with fixed cooking facilities and a bathroom with a toilet and bathtub or shower, arranged for occupancy by one (1) family.

DWELLING, SINGLE-FAMILY: A dwelling used by one (1) family, having only one (1) dwelling unit and having two (2) side yards.

DWELLING, TWO-FAMILY: A dwelling used by two (2) families, having only two (2) dwelling units and having two (2) side yards (such as double houses and duplexes).

DWELLING, MULTI-FAMILY: A dwelling used by three (3) or more families, having three (3) or more dwelling units, including apartment houses, garden apartments, row houses, and town houses.

DWELLINGS, GROUP: A group of two (2) or more two-family or multi-family dwellings, in any combination, occupying a lot in single ownership.

FAMILY: One (1) or more persons who live in one (1) dwelling unit and maintain a common household. May consist of a single person or of two (2) or more persons, whether or not related by blood, marriage or adoption. May also include domestic servants and gratuitous guests, but not occupants of a club, fraternal, lodging, or boarding house.

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

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

GARAGE: An accessory structure or that portion of a principal building used for the storage of one or more automobiles and/or other vehicles accessory and incidental to the principal use of the premises, provided that no business, occupation, or service is conducted for profit therein nor space therein for more than one automobile is leased to a non-occupant of the premises.

GOVERNING BODY: The Borough Council of the Borough of Martinsburg, Blair County, Pennsylvania.

GROSS ACRE: Based on the entire area of the development including all structure area and all open space including but not limited to yard areas, water areas, parking areas, internal streets and drives, and one-half the width of boundary streets not including any limited access highway.

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

JUNK YARD: Any lot, land, or structure, or part thereof, used primarily or incidentally for the collection, storage, and/or sale of waste paper, rags, scrap metal, or discarded material, or for the collecting, dismantling, storage, and salvaging of machinery or vehicles not in running condition, and/or for the sale of parts thereof. For the purpose of this Ordinance, the outdoor storage of three (3) or more unlicensed and/or inoperable automobiles shall constitute a Junk Yard subject to all regulations of this Ordinance pertaining to such.

LOT: Land occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory structures, together with such open spaces as are required under the provisions of this Ordinance, having not less than the minimum area and width required by this Ordinance for a lot in the district in which such land is situated, and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of law to be adequate as a condition for the issuance of a building permit for a building or use of such land.

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

LOT WIDTH: The width of the lot measured at the required front building line.

MOBILE HOME: (See Dwelling and Dwelling, Single-Family)

MUNICIPALITY: The Borough of Martinsburg, County of Blair, Commonwealth of Pennsylvania.

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

NONCONFORMING SIGN: A legally established sign that does not conform to the regulations of the district in which it is located.

NONCONFORMING USE: A legally established use that does not conform to the regulations of the district in which it is located.

PLANNED RESIDENTIAL DEVELOPMENT: An area of land, controlled by one owner, to be developed as a single entity for a number of dwelling units which may include limited non-residential uses accessory thereto, the development plan for which may not correspond in lot size, bulk or type of dwelling, density, lot coverage and required open space to the regulations established under the provisions of this Ordinance.

PLANNING CODE: The Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, Act 247, 53 PS 100101, ff., as amended.

PREMISES: Any lot, parcel or tract of land and any improvements constructed or placed thereon.

PUBLIC: Owned, operated or controlled by a government agency (Federal, State or local-- including a corporation created by law for the performance of certain specialized governmental functions).

PUBLIC, SEMI-: Owned, operated or controlled by a private non-profit organization of a public service nature and duly recognized as such by the Commonwealth of Pennsylvania.

SCHOOL: Any place offering instruction in any branch of knowledge under the supervision of the Commonwealth of Pennsylvania or a lawfully constituted ecclesiastical body.

SCREEN PLANTING: A vegetative material of sufficient height and density to conceal from the view of passing motorists and adjacent property owners the structures and uses on the premises on which the screen planting is located.

SETBACK: The required distance that buildings and structures must be set back from right-of-way or property lines.

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

SIGN: Any surface, fabric, device or structure (including billboards or poster panel) bearing lettered, pictorial or sculptured matter designed for visual communication and used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or any official traffic control sign or device.

SPECIAL EXCEPTION: The approval of a use that is other than a basic permitted use of a zone district, or a modification of the regulations of this Ordinance, which the Zoning Hearing Board is permitted to authorize in specific instances listed in this Ordinance, under the terms, procedures, and conditions prescribed herein.

STRUCTURE: Any combination of materials which forms a construction that is safe and stable, including but not limited to flagpoles, stadiums, platforms, towers, storage bins, fences exceeding six (6) feet in height, signs sign posts, lights, and light standards for other than residential use but excepting patios, driveways, walks, and parking areas at yard grade.

USE: The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

VARIANCE: A deviation from the strict application of the requirements of this Ordinance granted by the Zoning Hearing Board as authorized by this Ordinance under the circumstances, terms, procedures and conditions prescribed herein.

WAREHOUSE: To deposit, store or stock in a structure or room for the storage of merchandise or commodities.

WHOLESALE: To sell in quantity for resale.

YARD: A space open to the sky and unoccupied by any building, structure, or merchandise for display or sale, located on the same lot with a building or structure.

YARD, FRONT: A yard extending the full width of the lot and situated between the street right-of-way line and the required front setback line projected to the sidelines of the lot. The depth of the front yard shall be measured between the required front setback line and the street right-of-way line.

YARD, REAR: A yard extending the full width of the lot and situated between the rear line of the lot and the required rear setback line projected to the sidelines of the lot. The depth of the rear yard shall be measured between the rear line of the lot and the required rear setback line.

YARD, SIDE: A yard situated between the required setback line and the sideline of the lot and extending from the front yard to the rear yard. Any yard not a rear yard or a front yard shall be deemed a side yard.

FOR ANY WORD NOT DEFINED IN THIS ORDINANCE, THE DEFINITION IN THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE SHALL BE USED.

ARTICLE III
DESIGNATION OF DISTRICTS

Section 301. Districts.

For the purpose of this Ordinance, the Borough of Martinsburg is hereby divided into districts which shall be designated as follows:

R-S	Residential-Suburban District
R-U	Residential-Urban District
T-C	Town Center District
M-C	Manufacturing-Commercial District
I-P	Industrial Park District

Section 302. Zoning Map.

The boundaries of said districts shall be as shown upon the map designated "Zoning Map - Borough of Martinsburg". The said map, and all the notations, references, and other data shown thereon are hereby incorporated by reference into this Ordinance as if all were fully described herein.

Section 303. District Boundaries.

Where uncertainty exists as to boundaries of any district as shown on said map, the following rules shall apply:

- A. District boundary lines are intended to follow or be parallel to the center line of streets, streams, and railroads and lot or property lines as they exist on plans of record at the time of the adoption of this Ordinance, unless such district boundary lines are fixed by dimensions as shown on the map.
- B. Where a district boundary is not fixed by dimensions and where it approximately follows lot lines, or approved subdivision plans, and where it does not scale more than ten (10) feet there from, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.
- C. In un-subdivided land or where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by the use of the scale appearing on the map.

Section 304. Interpretation of Boundaries.

In case of an uncertainty, the Zoning Hearing Board shall interpret the intent of the map as to location of district boundaries.

Section 305. Use Adjustment on District Boundaries.

In subdivided land where a district boundary line divides a lot held in single and separate ownership the regulations of a district may extend over either portion of the lot a distance of not more than fifty (50) feet beyond the district boundary line providing such extension does not extend the district boundary along a street or road.

ARTICLE IV

DISTRICT REGULATIONS

R-S RESIDENTIAL - SUBURBAN DISTRICT

Section 401. District Purpose.

To provide for the orderly expansion of suburban residential development; to encourage continued agricultural pursuits as an interim use until suburban expansion occurs; to provide for the public health and to prevent the overcrowding of the land through the application of maximum housing densities; to encourage the preservation of public open space; to exclude activities of a commercial or industrial nature and any activities not compatible with residential development; to provide for the public convenience and avoid undue congestion of the roads; and to otherwise create conditions conducive to carrying out the purposes of this Ordinance.

Section 402. Basic Use Regulations.

In this District, buildings, structures and lots shall be subject to the following basic use regulations:

A. PERMITTED USES:

1. Single-family and two-family dwellings
2. Conversion apartments in areas with public water and sewer not exceeding three (3) dwelling units per structure.
3. Mobile home parks subject to the related regulations of the GENERAL REGULATIONS Article of this Ordinance.
4. Agriculture including cultivating the soil, producing crops and forage.
5. Forestry and horticulture including producing flowers and other ornamental plants.
6. Public facilities and utilities excluding solid waste disposal.
7. Signs subject to the related regulations of the GENERAL REGULATIONS Article of this Ordinance.
8. Accessory structures and uses associated with but incidental to the above uses excluding home occupations.

B. SUPPLEMENTAL USES (When approved as a Special Exception by the Zoning Hearing Board and subject to the applicable related regulations of the GENERAL REGULATIONS Article of this Ordinance).

1. Planned Residential Developments.
2. Multi-family dwellings with eighteen (18) or more dwelling units for couples and/or individuals (elderly and other).

3. Semi-public uses of an educational, religious, other cultural, recreational and medical nature; not including commercial amusements.
4. Mortuaries and undertaking establishments.
5. Home occupations. (SEE section 506)
6. Accessory structures and uses associated with but incidental to the above supplemental uses.

Section 403. Basic Spatial Regulations.

In this District, all buildings, structures and lots shall be subject to the following spatial related regulations which shall be considered as minimum standards:

A. LOT REQUIREMENTS

1. Area

a. With public water and sewer:

- (1) Single-family dwelling - the lot area shall be not less than ten thousand (10,000) square feet.
- (2) Conversion Apartments - the lot area shall be not less than four thousand (4,000) square feet plus fifteen hundred (1,500) square feet per family.
- (3) Multi-family dwellings with eighteen (18) or more dwelling units for couples and/or individuals (elderly and other) - See GENERAL REGULATIONS (SEE Section 511).
- (4) All other dwellings - the lot area shall be not less than six thousand (6,000) square feet per dwelling unit.

b. With public water or sewer, but not both:

- (1) Single-family dwelling - the lot area shall be not less than fifteen thousand (15,000) square feet.
- (2) All other dwellings - the lot area shall be not less than nine thousand (9,000) square feet per dwelling unit.

c. With neither public water nor sewer: The lot area per dwelling unit shall be not less than twenty thousand (20,000) square feet.

d. The minimum lot size for all non-residential uses shall be as necessary to meet the other spatial requirements of the District and this Ordinance, off-street parking and loading requirements, and adequately provide for any water and sewer services.

2. Width

The lot width at the building line shall be not less than:

- a. Eighty (80) feet with lot area at least 10,000 square feet but less than 20,000 square feet.
- b. One hundred (100) feet with lot area of 20,000 square feet or greater.

B. YARD REQUIREMENTS

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

1. Front yard - depth, thirty (30) feet.
2. Side yards (2) - width, fifteen (15) feet each.
3. Rear yard - depth, thirty (30) feet (*SEE section 523C – Rear Yard Exception*)
4. Special Buffering

All activities involving the raising and keeping of animals shall be set back a distance of at least one hundred (100) feet from any non-farm dwelling.

C. LOT COVERAGE

1. The lot coverage by all buildings and structures shall not be greater than thirty (30) percent.
2. No more than one dwelling per lot.

D. BUILDING HEIGHT

No building, excluding agricultural and public service structures, shall be erected to a height in excess of thirty-five (35) feet; provided however that this height may be increased one (1) foot for each additional foot that the width of each side yard exceeds the minimum required.

E. OFF-STREET PARKING AND LOADING

Off-street parking, loading and unloading areas shall be provided in accordance with the related regulations of the GENERAL REGULATIONS Article of this Ordinance.

R-U RESIDENTIAL - URBAN DISTRICT

Section 411. District Purpose.

To provide for the preservation and orderly redevelopment of existing residential areas where adequate public services and facilities essential for the health, safety, and general welfare of the population are available, to prevent the overcrowding of land through the application of maximum housing densities; to provide for the public convenience and avoid undue congestion of the streets; to exclude activities of a commercial, industrial or other nature not compatible with the residential environment; and to otherwise create conditions conducive to carrying out the purpose of this Ordinance.

Section 412. Basic Use Regulations.

In this District, buildings, structures and lots shall be subject to the following basic use regulations:

A. PERMITTED USES

1. Single-family and two-family dwellings.
2. Conversion apartments.
3. Multi-family dwellings not more than three (3) stories in height with less than eighteen (18) dwelling units per dwelling including apartments, garden apartments, row houses and town houses.
4. Public facilities and utilities.
5. Semi-public uses of an educational, religious, other cultural, recreational and medical nature; not including commercial amusements.
6. Signs subject to the related regulations of the GENERAL REGULATIONS Article of this Ordinance.
7. Accessory structures and uses associated with but incidental to the above uses and which may include home occupations subject to the related regulations of the GENERAL REGULATIONS Article of this Ordinance (*SEE section 501 and 506*).

B. SUPPLEMENTAL USES (When approved as a Special Exception by the Zoning Hearing Board and subject to the applicable related regulations of the GENERAL REGULATIONS Article of this Ordinance.

1. Multi-family dwellings greater than three (3) stories in height.
2. Multi-family dwellings with eighteen (18) or more dwelling units for couples and/or individuals (elderly and others).
3. Clubs and lodges of a fraternal nature.
4. Mortuaries and undertaking establishments.

5. Transient housing excluding hotels and motels.
6. Commercial uses of a personal service and convenience nature located on the first floor and/or basement levels of multi-family dwellings provided such are primarily intended to serve the residents thereof and the combined area of such uses does not exceed twenty-five (25) percent of the sum of the floor area devoted to residential use.

Section 413. Basic Spatial Regulations.

In this District, all buildings, structures and lots shall be subject to the following basic spatial related regulations that shall be considered as minimum standards:

A. LOT REQUIREMENTS

1. Single-family - 4,500 square feet per dwelling unit.
2. Two-family - 6,000 total square feet.
3. Multiple dwellings, including apartments, row houses, town houses and conversion apartments shall have a lot area per dwelling unit which shall average not less than the following:
 - a. One Story - 2,000 square feet per dwelling unit.
 - b. Two-Story - 1,500 square feet per dwelling unit.
 - c. Three-Story - 1,500 square feet per dwelling unit.
 - d. More than Three Store - 1,000 square feet per dwelling unit.
 - e. Multi-family dwellings with eighteen (18) or more dwelling units for couples and/or individuals (elderly and others) - See GENERAL REGULATIONS.
4. The minimum lot size for all non-residential uses shall be as necessary to meet the other spatial requirements of the District and this Ordinance, off-street parking and loading requirements, and adequately provide for any water and sewer service.

B. YARD REQUIREMENTS

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

1. Front yard - depth, twenty-five (25) feet.
2. Side yards (2) - width, ten (10) feet each.
3. Rear yard - depth, twenty (20) feet (*SEE section 523C – Rear Yard Exception*)

C. LOT COVERAGE

1. The lot coverage by all building and structures shall not be greater than forty (40) percent.
2. Only one dwelling per lot

D. BUILDING HEIGHT

No building, excluding public service related structures and multi-family dwellings as a special exception shall be extended to a height in excess of thirty-five (35) feet.

E. OFF-STREET PARKING AND LOADING

Off-street parking, loading and unloading areas shall be provided in accordance with the related regulations of the GENERAL REGULATIONS Article of this Ordinance.

T-C TOWN CENTER DISTRICT

Section 421. District Purpose.

To provide for the continued development of community centers typical and village settlements common to rural and semi-rural areas in an orderly manner; to exclude uses which would not be compatible with such areas; and to otherwise create conditions conducive to carrying out the purposes of this Ordinance.

Section 422. Basic Use Regulations.

In this District, buildings, structures and lots shall be subject to the following basic use regulations:

A. PERMITTED USES

1. One-family and two-family dwellings.
2. Multi-family dwellings not exceeding four (4) dwelling units per structure.
3. Conversion apartments not exceeding four (4) dwelling units per structure (*SEE section 511*).
4. Permitted dwelling units in the same structure as permitted commercial uses (*SEE section 520*).
5. Hotels and hotel apartments.
6. Stores and shops for retail business such as restaurants, food, drug, clothing, hardware, variety and antiques; and personal service shops such as barber, beauty, shoe repair and laundromats provided such activities are conducted entirely within a building.
7. Business and professional offices.
8. Mortuaries and undertaking establishments.
9. Public facilities and utilities excluding solid waste disposal.
10. Semi-public uses of an educational, religious, other cultural, recreational and medical nature (including medical centers and clinics).
11. Signs subject to the related regulations of the GENERAL REGULATIONS Article of this Ordinance.
12. Accessory structures and uses associated with but incidental to the above uses which may include home occupations subject to the related regulations of the GENERAL REGULATIONS Article of this Ordinance.
13. Wholesaling
14. Warehousing -- related to retail and wholesale business located in Town Center District

B. SUPPLEMENTAL USES (When approved as a Special Exception by the Zoning Hearing Board and subject to the applicable related regulations of the GENERAL REGULATIONS Article of this Ordinance).

1. Conversion apartments exceeding four (4) dwelling units per structure.
2. Multi-family dwellings with more than four (4) but less than eighteen (18) dwelling units per structure.
3. Multi-family dwellings with eighteen (18) or more dwelling units for couples and/or individuals (elderly and others).
4. Vehicle service stations with such activities as major engine overhauling and body repair prohibited.
5. Taverns and indoor theaters.
6. Indoor commercial recreation uses such as billiard and pool parlors.
7. Clubs and lodges of a fraternal nature.
8. Accessory structures and uses associated with but incidental to the above uses.

Section 423. Basic Spatial Regulations.

In this District, all buildings, structures and lots shall be subject to the following basic spatial related regulations that shall be considered as minimum standards:

A. LOT REQUIREMENTS

1. Single-family dwelling - 4,500 square feet per dwelling unit.
2. Two-family dwelling - 3,000 square feet per dwelling unit.
3. Multiple-family dwellings, including apartments, row houses, townhouses and conversion apartments shall have a lot area per dwelling unit that shall average not less than the following:
 - a. One-Story - 2,000 square feet per dwelling unit.
 - b. Two-Story - 1,500 square feet per dwelling unit.
 - c. Three-Story - 1,500 square feet per dwelling unit.
 - d. More than Three-Story - 1,000 square feet per dwelling unit.
 - e. Multi-family dwellings with eighteen (18) or more dwelling units for couples and/or individual (elderly and others) - See GENERAL REGULATIONS.
4. The minimum lot size for all non-residential uses shall be as necessary to meet the other spatial requirements of the District and this Ordinance, off-street parking and loading requirements, and adequately provide for any water and sewer service.

B. YARD REQUIREMENTS

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

1. Front yard - depth, fifteen (15) feet.
2. Side yard (2) - width, ten (10) feet, provided that when a mutual agreement is provided in writing by the adjoining property owners, no side yard shall be required where two or more uses adjoin side to side; however, in no case shall common walls be permitted between properties of separate ownership. In the case of a series of adjoining structures abutting and paralleling a public right-of-way, an unobstructed passage of at least twenty (20) feet in width shall be provided at grade level at intervals not more than four hundred (400) feet apart.
3. Rear yard - depth, twenty (20) feet (*SEE section 523C – Rear Yard Exception*).
4. Special Buffering

Except in the case of multi-family dwellings, the Zoning Hearing Board may require additional setbacks and screen planting as deemed necessary to adequately buffer uses permitted as Special Exceptions when such would abut residential properties or Districts.

C. LOT COVERAGE

The lot coverage by all buildings and structures shall not be greater than forty (40) percent.

D. BUILDING HEIGHT

No building, excluding public service related structures and multi-family dwellings, shall be extended to a height in excess of thirty-five (35) feet.

E. OFF-STREET PARKING AND LOADING

Off-street parking, loading and unloading areas shall be provided in accordance with the related regulations of the GENERAL REGULATIONS Article of this Ordinance (*SEE section 513*).

M-C MANUFACTURING - COMMERCIAL DISTRICT

Section 431. District Purpose.

To provide for the expansion and orderly development of uses of a light industrial and heavy commercial nature where such uses already exist and where such are appropriate to the character of the area; to minimize traffic congestion; to exclude uses not appropriate to such areas; to protect adjacent residential uses; and to otherwise create conditions conducive to carrying out the purposes of this Ordinance.

Section 432. Basic Use Regulations.

In this District, buildings, structures and lots shall be subject to the following basic use regulations:

A. PERMITTED USES

1. Agricultural product processing, sales, supply and storage.
2. Agricultural and automotive equipment sales, service and supply.
3. Construction equipment and material storage, sales and supply.
4. Fuel storage and supply.
5. Warehousing and wholesaling.
6. Printing, publishing, dry cleaning and laundering.
7. Garment and footwear making.
8. Spinning, weaving and dyeing.
9. Assembly and fabrication of small products.
10. Building trades, glass, machine, sheet metal and welding shops, excluding structural steel fabrication and stamping activity.
11. Public facilities and utilities.
12. Signs subject to the related regulations of the GENERAL REGULATIONS Article of this Ordinance.
13. Accessory structures and uses associated with but incidental to the above uses.

B. SUPPLEMENTAL USES (See "Uses Not Provided For" under the GENERAL REGULATIONS Article of this Ordinance).

Section 433. Basic Spatial Regulations.

In this District, all buildings, structures and lots shall be subject to the following basic spatial regulations that shall be considered as minimum standards:

A. LOT REQUIREMENTS - No Minimum

B. YARD REQUIREMENTS

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

1. Front yard - depth, ten (10) feet.
2. Side yard - width, ten (10) feet, provided that when a mutual agreement is provided in writing by the adjoining property owners, no side yard shall be required where two or more uses adjoin side to side; however, in no case shall common walls be permitted between properties of separate ownership. In the case of a series of adjoining structures abutting and paralleling a public right-of-way, an unobstructed passage of at least twenty (20) feet in width shall be provided at grade level at intervals not more than four hundred (400) feet apart.
3. Rear yard - no minimum excluding any required buffer yard.
4. Buffer yards required in lieu of other spaces:
 - a. Where abutting a residential district, a buffer yard of not less than twenty (20) feet shall be provided.
 - b. Where abutting a street that abuts a residential district, a buffer yard of not less than fifteen (15) feet measured from the street right-of-way shall be required.
 - c. Where abutting a stream, a buffer yard of not less than fifteen (15) feet in width, measured from the edge of the stream shall be required.
 - d. All buffer yards shall be planted and maintained with a vegetative material to include a row of evergreen screen planting.
 - e. Buffer yards may be crossed by access roads and service drives not exceeding thirty-five (35) feet in width.

C. LOT COVERAGE

1. The lot coverage by all buildings and structures shall not be greater than fifty (50) percent.
2. Not less than ten (10) percent of the lot area shall be covered with a vegetative material.

D. BUILDING HEIGHT

No building or structure, except material processing elevators, shall be erected to a height in excess of thirty-five (35) feet; provided however that this height limit may be increased one (1) foot for each additional foot that the width of each side yard exceeds the minimum required.

E. OFF-STREET PARKING AND LOADING

Off-street parking, loading and unloading areas shall be provided in accordance with the related regulations of the GENERAL REGULATIONS Article of this Ordinance.

I-P INDUSTRIAL PARK DISTRICT

Section 441. District Purpose.

To permit and encourage industrial development that will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the community, contribute to the soundness of the economic base, and otherwise further the purpose of this Ordinance.

Section 442. Basic Use Regulations.

In this District, buildings, structures and lots shall be subject to the following basic use regulations and shall conform to the performance standards set forth in this Ordinance or otherwise adopted by the municipality, subject conform to the performance standards set forth in this Ordinance or otherwise adopted by the municipality, subject to any greater requirement of the Commonwealth of Pennsylvania:

A. PERMITTED USES

1. All commercial and industrially related uses not permitted in any "Manufacturing-Commercial District" and all other commercial uses not permitted in any other District, excluding any such uses otherwise prohibited by law; subject to any further regulations of this Ordinance.
2. All industrial uses (manufacturing and related) excluding any such uses otherwise prohibited by law, subject to any further regulations of this Ordinance.
3. Agriculture including cultivating the soil, producing crops and forage, dairying, raising and keeping livestock including poultry.
4. Horticulture including producing flowers and other ornamental plants.
5. Sale of agricultural and horticultural products and related products including equipment.
6. Signs subject to the related regulations of the GENERAL REGULATIONS Article of this Ordinance.
7. Accessory structures and uses associated with but incidental to the above permitted uses.

B. SUPPLEMENTAL USES (When approved as a Special Exception by the Zoning Hearing Board and subject to the applicable related regulations of the GENERAL REGULATIONS Article of this Ordinance.)

1. Quarrying.

2. Uses of land, buildings, and structures or industrial processes that may be noxious or injurious by reason of the production or emission of dust, smoke, refuse matter, odor, gas, fumes, noise, vibration, or similar substances or conditions provided that such conditions, restrictions and safeguards as deemed necessary by the Zoning Hearing Board and other appropriate officials to adequately protect the health, safety, morals and the general welfare of the community are assured and any required performance standards are met.
3. Public facilities and utilities.
4. Accessory structures and uses associated with but incidental to the above uses.

Section 443. Basic Spatial Regulations.

In this District, all buildings, structures and lots shall be subject to the following basic spatial related regulations which shall be considered as minimum standards.

A. LOT REQUIREMENTS. No Minimum

B. YARD REQUIREMENTS

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

1. Front yard - depth, thirty (30) feet.
2. Side yards (2) - width, thirty (30) feet each.
3. Rear yard - depth, thirty (30) feet.
4. Buffer yards required in lieu of or part of other spaces - whichever is the greater:
 - a. Where an industrial district abuts a residential district, a buffer yard of not less than fifty (50) feet shall be required.
 - b. Where an industrial district abuts a street that abuts a residential district, a buffer yard of not less than thirty (30) feet measured from the street right-of-way shall be required.
 - c. Where an industrial use abuts a stream, a buffer yard of not less than fifteen (15) feet in width, measured from the edge of the stream shall be required.
 - d. All buffer yards shall be planted and maintained with a vegetative material to include a row of evergreen screen planting.
 - e. Buffer yards may be crossed by access roads and service drives not more than thirty-five (35) feet in width.

C. LOT COVERAGE

1. No limit provided that all other spatial requirements of this Ordinance are met.
2. All open space other than off-street parking lots, loading and unloading space, access drives, rail sidings, and outdoor activity areas shall be covered with a vegetative material.

D. BUILDING HEIGHT

No building or structure shall exceed the height of thirty-five (35) feet; provided, however, that this height may be increased one (1) foot for each additional foot that the width of each yard exceeds the minimum required.

E. OFF-STREET PARKING AND LOADING

Off-street parking, loading and unloading areas shall be provided in accordance with the related regulations of the GENERAL REGULATIONS Article of this Ordinance.

ARTICLE V
GENERAL REGULATIONS

Section 501. Accessory Structures.

- A. Accessory structures shall not be constructed in any front yard.
- B. Accessory structures shall not be constructed in that portion of the side yard that is the minimum open space required for side yards as set forth under the applicable district regulations.
- C. An accessory structure may be erected within a rear yard provided that:
 - 1. It shall be at least ten (10) feet from the rear property line.
 - 2. It shall be at least ten (10) feet from the nearest wall of the main building; or this may be reduced to five (5) feet if no windows or other openings in either building are involved; or the accessory structures may be integrated with the main building by contiguous walls, breezeway, or other connection.
 - 3. See Section 523 – Rear Yard Exception – 25 feet from center of alley
- D. No accessory structure shall be used for dwelling purposes unless expressly authorized by the Zoning Hearing Board.
- E. No accessory structure shall be constructed and occupied on any lot prior to the time of the completion of the construction of the principal structure to which it is accessory.

Section 502. Clubs, Lodges and Fraternal Organizations.

- A. Lodges and similar structures shall conform to all building regulations, existing or hereafter enacted, that apply to residential structures within the Township. These structures may be converted for year-round dwelling purposes.
- B. Clubs, lodges, and fraternal organizations are restricted to those uses not conducted primarily for gain, although a dining room may be operated for the benefit of club members; provided that no sign advertising the sale of food or beverages will be permitted. Buildings or structures hereafter converted or erected for such use are subject to all applicable regulations for the district in which the facility is to be located.

Section 503. Drainage.

- A. In all districts, no permanent structure shall be permitted within fifteen (15) feet of the edge of any stream or existing natural drainage channel or such additional space as may be required by the Zoning Hearing Board because of existing conditions.
- B. No fences shall be permitted to cross a stream or natural drainage channel unless, such fence does not restrict the natural flow of water.

- C. All structures and lots shall be adequately drained at all times.
- D. Fill materials may be placed along the outer lines of any stream or drainageway when approved as a special exception and authorized by the Zoning Hearing Board and when so approved shall be subject to the following conditions:
 - a. Factual evidence shall be submitted to the Zoning Hearing Board indicating that the cross section area of the stream drainage way will not be reduced and will be sufficient to contain anticipated run-off based on past records.
 - b. Evidence shall be submitted indicating the approval and permission for the proposed fill from the Pennsylvania Department of Environmental Resources.

Section 504. Floor Area, Habitable.

- A. The minimum habitable floor area of any dwelling unit hereafter established shall be two hundred fifty (250) square feet for a unit with one bedroom or sleeping area plus two hundred (200) square feet for each additional bedroom or sleeping area contained therein.
- B. In any dwelling unit hereafter established, no bedroom or sleeping area shall have a floor area of less than seventy (70) square feet, excluding closet space.
- C. At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven (7) feet and the floor area of that part of any room where the ceiling height is less than five (5) feet shall not be included as part of the habitable floor area.
- D. Every kitchen shall have not less than 50 square feet of gross floor area.

Section 505. Height Regulations.

- A. The height of any building may exceed the maximum permitted height by one foot for each additional foot by which the width of each side yard exceeds the minimum yard regulations for the district in which the building is located.
- B. Height regulations shall not apply to spires, belfries, cupolas, penthouses, or domes not used for human occupancy, nor to chimneys, ventilators, skylights, water tanks, bulkheads, public utility poles or towers, silos, and ornamental or necessary mechanical appurtenances.

Section 506. Home Occupations.

An accessory use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. And further provided that no more than one employee other than the residents of the dwelling shall be permitted. Home occupation is deemed to include: Barber, Hairdresser, Dressmaker, Milliner, Professional Office of Attorneys, Architects, Landscape Architects, Engineers, Accountants, Physicians, Dentists, Realtors, Insurance Agents, Bed and Breakfast, and Municipal Officials. Off-street parking of at least two (2) spaces shall be provided in addition to the spaces required for the dwelling.

Section 507. Junk Yards.

All junk yards existing at the effective date of this Ordinance, within one year thereafter, and all new junk yards, where permitted, shall comply with the following provisions:

- A. Such uses shall be conducted within a building or entirely enclosed within a fence or wall of not less than eight (8) feet in height and said fence or wall shall be constructed of permanent material and shall provide a visual protection to adjoining properties and thoroughfares.
- B. No junk material, appurtenant structure, related activity or other enclosure shall be stored, placed or conducted within fifty (50) feet of any adjoining property or public right-of-way and such set-back area shall be kept free of weeds and shrub-growth unless the adjoining property is wooded.
- C. No materials or parts of any kind shall be stored on hillsides, rising in such a way as to be visible to surrounding adjacent properties in such a way as to create a nuisance or other detrimental affect on the said adjoining properties.
- D. All junk shall be stored or arranged so as to permit access by fire fighting equipment and to prevent the accumulation of water, and no junk shall be piled to a height of more than eight (8) feet.
- E. No oil, grease, tires, gasoline or other similar material shall be burned at any time, and all other burning shall be attended and controlled at all times.
- F. Any junk yard shall be maintained in such a manner as to cause no public or private nuisance, nor to cause any offensive or noxious sounds or odors, nor to cause the breeding or harboring of rats, flies, or other vectors.

Section 508. Lights.

- A. No flashing or oscillating light shall be permitted in any district. Any light by reason of intensity, color, location or movement of its beam that may interfere with or abrogate public safety shall not be permitted in any district.

Section 509. Lot of Record.

- A. In the case of a lot held in single and separate ownership at the effective date of this Ordinance which does not fulfill the requirements for the minimum area for the district in which it is located, a building may be erected or altered thereon.
- B. In the case of a lot held in single and separate ownership at the effective date of this Ordinance which because of unusual conditions of depth or width renders difficult the provision of the required open spaces of the district in which it is located, the required open spaces may be decreased.

Section 510. Mobile Home Parks.

In districts where permitted or permitted as a special exception, Mobile Home Parks shall be subject to all applicable regulations of the Municipality and the Commonwealth of Pennsylvania.

Section 511. Multi-family Dwellings for Couples and/or Individuals.

Multi-family dwellings with eighteen (18) or more dwelling units for couples and/or individuals (elderly and other), in districts where permitted as a special exception, shall be subject to the following minimum lot and yard requirements in addition to the other basic spatial regulations of the district in which the use is located:

- A. Lot Requirements - Four-hundred fifty (450) square feet per dwelling unit.
- B. Yard Requirements.
 - 1. Front yard - depth, twenty (20) feet.
 - 2. Side yards (2) - width, twelve (12) feet.
 - 3. Rear yard - depth, twenty (20) feet.

Section 512. Non-Conforming Uses.

A use legally established as of the effective date of this Ordinance as amended which does not conform to the regulations of the district in which it is located shall be subject to the following:

- A. A certification of Non-Conformance shall be issued by the Zoning Officer for all uses and/or structures in conflict with the regulations of the zone in which they are situated, when requested by the owner thereof, within one (1) year after the effective date of this Ordinance.
- B. Continuation: Any lawful use of a structure or land existing at the effective date of this Ordinance may be continued although such use does not conform to the provisions of this Ordinance.
- C. Extensions:
 - 1. A non-conforming use of a building may be extended throughout the building if no structural alterations are made therein.
 - 2. A non-conforming use may be extended upon a lot occupied by such use and held in single and/or separate ownership at the effective date of this Ordinance when authorized as a special exception; provided that such extension does not replace a conforming use, and does not violate the yard requirements of the zone in which the non-conforming use exists.
- D. Changes:
 - 1. If no structural alterations are made, any non-conforming use of a structure and premises, may as a special exception be changed to another non-conforming use provided that the Zoning Hearing Board, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Zoning Hearing Board may require appropriate conditions and safeguards in accord with the provisions of this Ordinance.

2. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed.
- E. A non-conforming building which is damaged by fire, explosion, or act of nature, may be rebuilt and used for the same purposes, provided that:
1. The reconstruction of the building is commenced within one year from the date of the destroying of the building and is carried to completion with undue delay, and
 2. The reconstructed building does not exceed in height, area, and volume, the building destroyed (subject to Item 3 following), and
 3. The reconstructed building shall comply with the area regulations of the district in which it is located.
- F. Abandonment: When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for twelve (12) consecutive months or for eighteen (18) months during any three-year period (except when death, involuntary or government action impedes access to or use of the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

Section 513. Off-Street Parking, Loading and Unloading.

A. General Regulations.

1. Off-street parking facilities shall be provided to lessen congestion in the streets. The facilities required herein shall be available throughout the hours of operation of the particular business or use for which such facilities are provided. As used herein, the term "parking space" includes either covered garage space or uncovered parking lot space located off the public right-of-way.
2. Each parking space shall consist of not less than an average of two hundred seventy (270) square feet of usable area (including driveways) for each motor vehicle. The net parking space per vehicle shall be not less than nine (9) feet wide and twenty (20) feet long. Outdoor parking spaces, and the approaches thereto, shall be paved, or covered with gravel or cinders. Such outdoor parking space shall be deemed to be part of the open space of the lot on which it is located.
3. A garage may be located wholly or partly inside the walls of the principal building, or attached to the outer walls. If separated from the principal building, the garage shall conform to all necessary building requirements.
4. Parking spaces may be located on a lot other than that containing the principal use with the approval of the Zoning Hearing Board.

B. Parking Facilities Required.

Any structure or building hereafter erected, converted, or enlarged for any of the following uses, or any open area hereafter used shall be provided with not less than minimum parking spaces, as set forth below, which spaces shall be readily accessible to the uses served thereby. Fractional numbers of parking spaces shall be increased to the next whole number.

1. Residential Parking

- a. One-family dwelling - two (2) parking spaces.
- b. Two-family dwelling - one and one-half (1-1/2) parking spaces for each dwelling unit.
- c. Multi-family dwellings including conversion apartments - The total number of parking spaces shall not be less than one and one-half (1-1/2) times the number of dwelling units in the building. A garage accessory to an apartment house shall provide only for the storage of vehicles of the owner, tenants, and employees. The minimum required number of parking spaces for apartments designed and erected to house elderly citizens shall be equal to twenty percent (20%) of the number of dwelling units.
- d. Boarding or rooming houses, hotels, motels, and tourist homes - one parking space for each guest room. If a restaurant in connection with the above is open to the public, the off-street parking facilities shall not be less than those required for restaurants, in addition to those required for guest rooms.
- e. For the purpose of this Ordinance, in Residential Districts when one or two parking spaces are required for dwellings, an attached or unattached garage or carport on the premises and that portion of the driveway off the public right-of-way may be considered as parking space.

2. Commercial Parking. The following regulations shall be applied to new facilities included within and/or comprising shopping centers, plazas, and neighborhood centers hereafter erected. The requirements herein may be modified and in some cases removed by the Zoning Hearing Board when it is determined by the Board that public parking lots and facilities are available in sufficient number to negate the need for customer parking on the premises.

- a. Theaters, auditoriums, churches, schools, stadiums, or any other place of public or private assembly - At least one (1) parking space for each four (4) seats provided for public or private assembly.
- b. Retail stores and other places for trade or business - One (1) vehicle space for each two hundred (200) square feet of floor area for public use.
- c. Restaurant, tearooms, and cafeteria including taprooms, taverns and nightclubs - One (1) vehicle space for each fifty (50) square feet of floor area for public use.
- d. Bowling alley - Five (5) vehicle spaces for each alley.
- e. Office Building - At least one (1) parking space for each three hundred (300) square feet of floor area or fraction thereof.

- f. Public garages, automobile, and gasoline service stations - At least one (1) parking space for each two hundred (200) square feet of floor or ground area, or fraction thereof, devoted to repair or service facilities, which shall be in addition to the space allocated for the normal storage of motor vehicles. In no event shall parking be permitted on the public rights-of-way.
 - g. Parking Garage - No parking space shall be required in yard areas; however, no parking shall be permitted on the public rights-of-way.
 - h. Hospitals, Sanitariums, and Nursing Homes - At least one (1) parking space for each three (3) patients for which accommodations are provided; such spaces shall be in addition to those necessary for doctors, administrative personnel and other regular employees.
 - i. Other Commercial Buildings - At least one parking space for each four hundred (400) square feet of floor area, or fraction thereof, or one parking space for each four (4) employees, whichever requirement is the lesser.
 - j. Drive-in Dairy and Restaurants - Provisions for parking for drive-in facilities must meet with the approval of the Zoning Hearing Board and under no conditions will parking on the public rights-of-way be permitted.
 - k. Dance Halls, Roller Rink, Clubs, Lodges, and other similar places - At least one (1) parking space for each two hundred (200) square feet of floor area.
 - l. Swimming Pool - At least one (1) parking space for each twenty (20) persons for whom facilities for dressing are provided; or at least one parking space for every two hundred forty (240) square feet of water surface, including areas for swimming, wading and diving, whichever requirement is the greater.
 - m. Undertaking Establishments - At least one (1) parking space for each one hundred (100) square feet of floor area for public use. Such space shall be in addition to employee parking spaces and a service area for mobile equipment (such as hearses and ambulances).
3. Industrial Parking. These regulations shall apply to industrial expansion and industrial installations erected after the effective date of this Ordinance. Off-street parking shall be provided in accordance with the following schedule:
- a. Industrial and manufacturing establishments - One and one-half vehicle parking spaces for each two (2) employees based on the capacity number of employees on the largest shift.
 - b. Truck terminals and wholesale warehouses - One and one-half parking spaces for each two (2) employees based on the capacity number of employees on the largest shift.
 - c. Visitors - Space shall be provided in addition to the above parking requirements according to the specific needs as determined by the Planning Commission. For the purpose of this Ordinance, salesmen and out-of-town personnel are considered visitors.

C. Loading and Unloading Space.

1. In addition to the off-street parking space required herein, any building erected, converted or enlarged in any district for commercial, office manufacturing, wholesale, hospital or similar use shall provide adequate off-street area for loading and unloading of vehicles according to the following schedule:

<u>Use</u>	<u>Gross Floor Area Square Feet</u>	<u>Minimum Number of Spaces</u>
Stores, manufacturing, wholesale, commercial hospitals, laundry mortuary, dry cleaning and similar uses	Under 8,000	1
	8,000 to 40,000	2
	40,000 to 250,000	3
	Each additional 200,000	1
Office Buildings, Hotels	Under 100,000	1
	100,000 to 300,000	2
	Over 300,000	3

2. In no case where a building is erected, converted or enlarged for commercial, manufacturing, or business purposes shall the public rights-of-way be used for loading or unloading of materials.

Section 514. Planned Residential Development.

- A. In accordance with the Pennsylvania Municipalities Planning Code, any municipality may enact ordinances fixing procedures; standards and conditions for "planned residential developments" and such standards may vary the density or intensity of land use including the bulk and location of buildings otherwise applicable to the land under the provisions of this Ordinance.
- B. The purpose of such variations are, among other considerations: (a) that the demand for housing may be met by greater variety in the type, design and layout of dwellings and (b) to provide flexibility in land use controls so that residential development may be better related to a particular demand for housing than may be possible under the provisions of this Ordinance which are primarily structured in respect to "lot-at-a-time" development.
- C. Applications for "planned residential developments" will be considered by the Governing Body when located within a zone district in which such are listed under the District Regulations of this Ordinance.
- D. The modifications of this Ordinance necessary to accomplish a specific "planned residential development", as determined and established by the Governing Body, by Ordinance, shall become an amendment to this Ordinance in respect to the land included within the "planned residential development" upon final approval of the plan or portion thereof in respect thereto by the Municipality. The land included in the "planned residential development" shall be identified on the Official Zoning Map and referenced to the Ordinance regulating its development.

Section 515. Performance Standards.

- A. The purpose is to establish minimum environmental standards with which all proposed land uses, and structures must comply. Evidence of ability to comply shall be required prior to the issuance of a zoning permit or a certificate of occupancy, and continued compliance shall be required during the operation of such land uses, and structures.
- B. Where in the opinion of the Zoning Hearing Board and the Governing Body there is a probable violation of any Performance Standard set forth in Subsection 4b hereunder, they are empowered to have a qualified technician perform such investigations, measurements, and analysis as may be necessary to determine whether or not there is in fact a violation. Where a violation is found the offender shall bear the cost incurred by the municipality in retaining the qualified technician.

1. Residential Densities (Units per gross acre of land to be developed for each purpose)

- a. Single-family dwellings: shall not exceed 5 families per acre.
- b. Two-family dwellings: shall not exceed 9 families per acre.
- c. Multi-family dwellings:
 - (1) Structures housing less than seven families shall not exceed 16 families per acre.
 - (2) Structures housing less than seventeen (17) families shall not exceed 21 families per acre.
 - (3) Structures housing over seventeen (17) families shall not exceed 62 families per acre.
 - (4) Structures housing over 17 units all designed for couples without children (Elderly and Others) shall not exceed 100 units per acre.

2. Coverage (Residential)

- a. Single and two family structures - see District Regulations
- b. Multi-family structures - not to exceed 40% unless greater coverage is permitted under the District Regulations.

3. Privacy

All new land developments and structures shall, by site planning, location and orientation of structures, provide visual and acoustical privacy between themselves and adjoining lots and structures. The conditions of existing adjacent lots and structures shall govern the design of new lot developments and structures in the question of privacy.

4. Commercial and Industrial Standards

a. Area

- (1) No minimum. The developer must submit a proposal for site development including the basis upon which the need for the commercial and/or industrial enterprise was determined.
- (2) The developer must demonstrate that the area proposed is sufficient to provide for all structures, service areas and open spaces necessary to the proper functioning of the proposed use.

b. Nuisance and hazard abatement

- (1) Noise - At no point on or beyond the boundary of any lot shall the sound pressure level resulting from any use or activity, whether open or enclosed, (except noise not directly under control of the property user, noises resulting from the construction and maintenance of buildings and facilities including site preparation, and the noises of safety signals, warning devices, railroads, and automobile traffic) exceed the maximum permitted decibel levels for the designated octave band as set forth in the table below:

<u>Octave Band, Frequency in Cycles per Second</u>	<u>Sound Pressure Level in Decibels</u>
0-74	73
75-149	68
150-299	60
299 300-599	53
600-1, 199	47
1,200-2,399	41
2,400-4,799	35
4,800-and over	33

- (2) Odors - No continuous, frequent, or repetitive emission of odors or odor-causing substances which would be offensive at or beyond any property line will be permitted. The existence of an odor shall be presumed when the concentration of the odor-causing substance or substances in the air at any point at or beyond the property line of the source exceeds the lowest concentration listed as the odor threshold for such substances in Table III (Odor Thresholds) appearing in Chapter 5 of the Air Pollution Abatement Manual, copyright 1952 by the Manufacturing Chemists Association, or as subsequently amended. Substances not cited in said table shall be deemed odorous when analysis by a competent technician demonstrates that a discernible odor is being emitted.

- (3) Offensive Area - All areas for parking, recreation, service, utility equipment, waste receptacles, and/or other elements which because of their appearance, odor and/or noise would be offensive to those occupying the lot or adjoining lots or those on the street, shall be screened, landscaped or otherwise treated to eliminate the offensive condition.
- (4) Lighting - Lighting of all types shall be directed so as to reflect away from adjacent lots and public right-of-ways.
- (5) Landscaping - Natural landscaping elements (trees, shrubs, rocks, streams, contours) are a valuable asset in the urban environment. All site developments shall retain as much of the natural landscaping to a quality comparable to that of the surrounding properties.
- (6) Fire - All site layouts and structures shall comply with the International Residential Code or International Building Code. No structure nor activity within a site or structure shall pose a hazard of fire for adjacent lots and/or structures. Access for fire fighting personnel and equipment shall be provided for every structure on the site.
- (7) Smoke - It shall be unlawful for any person to permit the emission of any smoke from any source other than that which is provided for under the guidelines of Ordinance 1988-452.
- (8) Toxic and Noxious Matters - No emission which would be demonstrably injurious to human health, animals, or plant life at or beyond the boundaries of any lot will be permitted. Where such an emission could result from an accident or equipment malfunction, adequate safeguards considered standard for safe utilization of the toxic and noxious matters involved shall be taken.
- (9) Radiation Hazards - The handling of radioactive materials, the discharge of such materials into air and water, and the disposal of radioactive wastes, shall be in conformance with the applicable regulations of the Atomic Energy Commission.
- (10) Fire and Explosive Hazards - The storage, utilization, or manufacture of solid materials or products ranging from free or active burning to intense burning is permitted, but only if said materials or products are stored, utilized, or manufactured within completely enclosed building having incombustible exterior and protected throughout by an automatic fire extinguishing system. All activities involving the use and/or storage and/or disposal of flammable or explosive material shall be provided with adequate safety and protective devices against hazards of fire and explosion, as well as with adequate fire-fighting and suppression equipment and devices standard to the industry involved.
- (11) Glare and Heat - Any operation producing intense glare or heat shall be performed with an enclosure so as to completely obscure such operation from view from any point along the property line, except during the period of construction of the facilities to be used and occupied.

(12) Electromagnetic Radiation - In the interest of maintaining an atmosphere fruitful to research, there shall be no electromagnetic interference that adversely affects at any point the operation of any equipment other than that belonging to the creator of such interference, or that is not in conformance with the regulations of the Federal Communications Commission.

(13) Fly Ash, Dust, Fumes, Vapors, Gases, and other Forms of Air Pollution - No emission which can cause any damage to health, to animals or vegetation, or their forms of property, or which can cause any excessive soiling at any point, and in no event any emission, from any chimney or otherwise, of any solid or liquid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas or air at any point shall be permitted. This shall be measured at the point of emission.

(14) Water - No emission of pollutants (as defined by the Pennsylvania Department of Environmental Protection) into a waterway or sewage system extending beyond the property line shall be permitted.

5. Open Space

- a. Open space shall be required within every area developed as a Planned Residential Development. The open space shall provide among others, recreation areas, slope preservation, stream protection areas, public use areas where public uses may be permitted to include educational facilities, churches, utilities, transmission services, municipal uses, etc.
- b. The developer shall submit a proposed method for identifying the open space and preserving it for public use; for its development and maintenance; and the organization and/or agency proposed to police the area and its maintenance, all in accord with the Planning Commission and the Governing Body.

Section 516. Recreation Vehicle Parks.

- A. The driveways, exits, entrances, and walks shall be lighted and paved in accordance with the municipal standards. One-way traffic driveways shall be not less than twelve (12) feet wide and two-way traffic driveways shall be not less than twenty-two (22) feet wide.
- B. An area of not less than one thousand (1,000) square feet shall be provided for each vehicle.
- C. Each vehicle shall be located not less than twenty (20) feet from any building and not less than thirty (30) feet from lines bounding adjacent property.
- D. There shall be one (1) off-street parking space not less than ten (10) feet wide and twenty (20) feet long for each vehicle space in the park.
- E. In addition to the off-street parking as required above, there shall be additional off-street parking spaces required equal to one-half (1/2) of the number of vehicle spaces provided in the park.
- F. Sewer and water facilities shall meet the requirements of the Pennsylvania Department of Environmental Protection and the Martinsburg Municipal Authority.

Section 517. Signs.

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

1. The following types of signs and no other, shall be permitted in Residence Districts:
 - a. Signs advertising the sale or rental of the premises upon which they are erected, when erected by the owner or broker or any other person interested in the sale or rental of such premises, may be erected and maintained, provided: (1) the size of any such sign is not in excess of six (6) square feet, and (2) not more than two signs are placed upon any property in single and separate ownership, unless such property fronts upon more than one street, in which event two such signs may be erected on each frontage.
 - b. Signs advertising the sale or development of the premises upon which they are erected, when erected in connection with the development of the premises by a builder, contractor, developer, or other person interested in such sale or development, may be erected and maintained, provided: (1) the size of any sign is not in excess of twenty (20) square feet, and (2) not more than two (2) signs are placed upon any property in single and separate ownership, unless such property fronts upon more than one street in which event two such signs may be erected on each frontage.
 - c. Signs indicating the location and direction of premises available for or in process of development, but not erected upon such premises and having inscribed thereon the name of the owner, developer, builder or agent, may be erected and maintained, provided: (1) the size of any such sign is not in excess of six (6) square feet, and not in excess of four (4) feet in length, and (2) not more than one such sign is erected on each five hundred (500) feet of street frontage.
 - d. Signs bearing the word "sold" or the word "rented" with the name of the persons effecting the sale or rental may be erected and maintained, provided the conditions in sub-section "a" hereof, are complied with.
 - e. Signs of mechanics, painters, and other artisans may be erected and maintained during the period such persons are performing work on the premises on which signs are erected, provided: (1) the size thereof is not in excess of twelve (12) square feet, and (2) such signs are removed promptly upon completion of the work.
 - f. Trespassing sign, or sign indicating the private nature of a driveway or property provided that the size of any sign shall not exceed two (2) square feet.
 - g. Signs of schools, colleges, churches, hospitals, sanitariums, or other institutions of a similar nature may be erected and maintained, provided: (1) the size of any such sign is not in excess of twenty (20) square feet, and (2) not more than two signs are placed on a property in single and separate ownership, unless such property fronts upon more than one street, in which event two such signs may be erected on each frontage.
 - h. Signs advertising the sale of farm products when permitted by this Ordinance, provided: (1) the size of any such sign is not in excess of six (6) square feet; (2) not more than two signs are used, and (3) the signs shall be displayed only when such products are on sale.

- i. Signs advertising home occupations shall be not larger than eight (8) inches by twenty-four (24) inches, bearing the name and occupations (words only) of the practitioner.

B. Signs in commercial and industrial districts.

1. The following types of signs and no other shall be permitted in commercial and industrial districts:
 - a. Signs as permitted in residential oriented districts.
 - b. Billboards and advertising sign boards only when they relate or refer directly to the use conducted on the premises or to the products made, sold or displayed on the premises.
 - c. Business identification signs bearing the name of the occupant and the products manufactured, processed, sold or displayed on the premises.

C. General Regulations for All Signs.

1. The following regulations shall apply to all permitted sign uses:
 - a. Signs must be constructed of durable material, maintained in good condition and not allowed to become dilapidated.
 - b. No sign shall be placed in such a position that it will cause danger to traffic on a street by obscuring the view.
 - c. No sign, other than an official traffic sign, shall be erected within the lines of any street, unless authorized by the municipal governing body for a special purpose.
 - d. No sign shall project over a public sidewalk.
 - e. No permit shall be required for the erection, alteration, or maintenance of any signs as permitted in sub-section "A" hereof, Signs in residence districts.
 - f. A permit shall be required for the erection or alteration of Billboards or Advertising Sign Boards, and Business Identification Signs.
 - g. Temporary signs, posters, or advertising bulletins shall not be erected sooner than two weeks prior to an event and shall be taken down no later than one week following the event. The size of the sign shall be no larger than four feet x eight feet (4 ft. x 8 ft.); setback from the curb or edge of the street shall be a minimum of ten feet (10 ft.) - if the sign can not be placed ten feet back due to a building or other structure the sign may be placed against and parallel to the building or structure. Under no circumstances shall the placement of a sign, poster, or bulletin be permitted if the visibility of vehicle operators is impaired.
 - h. In all districts only those signs, billboards, advertising signboards and business identification signs referring directly to materials or products, made, sold, or displayed on the premises on which the sign is erected shall be permitted. Such signs shall comply with all other requirements as stated herein, for the district in which they are erected.

- i. No animated, sequential, flashing or oscillating signs shall be permitted in any district. Any sign by reason of its intensity, color, location or movement that may interfere with traffic lights, signals, or other controls shall not be permitted in any district.
- j. Irrespective of all other provisions set forth herein, no billboard, advertising signboard or business identification sign shall exceed one hundred (100) square feet in area.
- k. All signs proposed to be placed within a PennDOT right-of-way shall be subject to all applicable state laws and provisions of this ordinance.

Section 518. Special Uses.

A. Municipal Buildings and Uses.

- 1. This Ordinance shall not apply to any building of the Municipality if the Governing Body shall, after a public hearing, decide that such building or extension thereof or such use of any premises is reasonably necessary for the convenience or welfare of the public, provided that any municipal recreational building or use may be established without holding such public hearing.

A. Public Utility Buildings and Uses.

- a. This Ordinance shall not apply to any existing or proposed building or extension thereof, used or to be used by a public utility corporation, if upon petition of such corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.
- a. Essential Services. The erection, construction, alteration, use and maintenance by municipal or governmental agencies and public utilities or public service corporations, of such facilities as are necessary for the furnishing of adequate service by such agencies, utilities or public service corporations, or for public health, safety, or general welfare, including underground or overhead electrical, gas, steam, or water transposal systems, including poles, wires, lines, mains, drains, sewers, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, gas regulator and measuring devices, including the structures in which they are housed, and other similar equipment shall conform to the general character as to appearance and structural material of the other structures within the district and provided that, in Residential Districts such shall not include the storage of vehicles or equipment necessary to the normal maintenance, repair or installation for any utility. The installation of these "Essential Services" except transformers, pumps, and similar equipment that cause any noise, odor, smoke or other hazardous effect, shall be permitted without the requirements of a public hearing by the Public Utility Commission or the Zoning Hearing Board.

Section 519. Uses Not Provided For.

- A. Whenever in any district established under this Ordinance a use is neither specifically permitted nor denied and an application is made by a property owner to the Zoning Officer for such use, the Zoning Officer shall refer the application to the Zoning Hearing Board which shall have the authority to permit the use or deny the use. The use may be permitted if it is similar and compatible with permitted uses in the district and in no way is in conflict with the general purpose and intent of this Ordinance.

Section 520. Vehicle Service Stations.

A. In districts where permitted, such shall be subject to the following safeguards and regulations:

1. No service station shall be located closer than 500 feet to any lot line of a school, hospital, or public institution for human care.
2. Gasoline pumps, lubricating or other dispensing devices shall be located no less than twenty-five (25) feet from any public right-of-way line.
3. No repair work (other than minor motor adjustments) shall be performed out-of-doors.
4. No vehicle, including rental vehicles and trailers, shall be parked or otherwise stored within any required yard area.
5. No automobile parts including tires, dismantled vehicles, equipment including rental equipment other than vehicles and trailers, or similar articles shall be stored out-of-doors; except that such may be temporarily stored out-of-doors provided that such are entirely enclosed by a solid visual screen fence or wall constructed of permanent materials to a height of at least six (6) feet and such stored articles do not extend above said screen; provided further that no such storage area may extend into any required yard area.
6. All other applicable regulations of this Ordinance shall be met.

Section 521. Vision Obstruction.

A. Visibility at Intersections.

1. On any corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2-1/2) feet and ten (10) feet above the centerline grades of the intersection streets in the area bounded by the centerlines of such streets and a line joining points along said centerlines seventy-five (75) feet from the point of intersection.

Section 522. Walls and Fences.

- A. No fence or wall (except a retaining wall or a wall of a building permitted under the terms of this Ordinance) over six (6) feet in height shall be erected closer to any wall of a residence (on the subject property or a neighboring property) than the required side yard width of the applicable district, unless that portion of the fence or wall exceeding six (6) feet in height shall contain openings herein equal to fifty percent (50%) or more of the area of said portion of the fence or wall; provided that, the required openings shall be deemed to include any openings that occur in that portion of the fence or wall that is within the first six (6) feet of height of the fence measured from the ground.
- B. Notwithstanding other provisions of this Ordinance, walls and fences may be permitted in any required yard or along the edge of any yard, provided that no wall or fence along the sides or front edge of any front yard shall be over three and one-half (3 1/2) feet in height. The wall or fence shall have minimum setback from the street of ten (10) feet. No fence shall be placed in such a position that it will cause danger to traffic on a street by obscuring the view of vehicle operators.

Section 523. Yards.

A. Front Yard Exception.

1. When the setback of existing buildings is greater than the minimum provided, the required setback of a building hereafter erected shall be the same as or greater than the average setback of existing buildings in the same block on the same side of the street.
2. The front yard of a proposed building may be decreased in depth to the average formed by the alignment of existing buildings within one hundred (100) feet of each side of the proposed building, and within the same block, if such alignment of existing buildings is less than the front yard requirement for the district.

B. Corner Lots.

1. In the case of a corner lot, the front yard with the long dimension may be reduced by an amount not to exceed thirty percent (30%) of the required front yard depth for the district in which the lot lies. The remaining two yards shall constitute a side yard and a rear yard.

C. Rear Yard Exception.

1. When a rear yard abuts an alley, a structure shall not be erected closer than twenty-five (25) feet from the centerline of said alley.

D. Projections.

1. No principal building, and no part of a building shall be erected within, or shall project into the front, side, or rear yard of a lot, except cornices, eaves and gutters, steps, chimneys or similar appurtenances, which may project into yard areas provided that the projection is not more than eighteen (18) inches. However, covered porches, stoops, patios and attached carports, whether enclosed or unenclosed shall be considered as part of the principal building and shall not project into a required yard area.

E. Storage of Material in Yards.

1. The outdoor display or storage of any equipment or material, other than incidental lawn ornaments, furniture and play equipment, shall not be permitted in any yard area required by this Ordinance.

Section 524. Swimming Pools, Spas and Hot Tubs.

- A. Placement: As an accessory structure, a pool and accessory deck area shall be erected only in a rear yard provided it is no closer to the adjoining property line than the distance of the required side yard for the zoning district in which it is located.

B. Fencing

1. In-ground pools, in all zoning districts, shall be enclosed by a fence, constituting a barrier to small children, at least 4 feet in height and equipped with a gate and lock. Fencing for a pool shall comply with the applicable requirements of Section 522 of this Ordinance.

2. Above-ground pools in all zoning districts having vertical walls 4 feet or more above ground level and removable steps are not required to be fenced, but the owner shall remove the steps when the pool is not in use to prevent access by small children.
- C. All provisions for swimming pools, spas, and hot tubs as listed in the current International Residential Code shall apply in addition to Section 524 of this ordinance.

Section 525. Radio, Television or Satellite Dish Antennas.

A. Radio or Television Antenna

1. A radio or television antenna structure is a permissible accessory structure in any zoning district subject to the requirements of this section.
2. Such structure may be mounted on a roof or installed in a rear yard area only, provided that no ground level structure shall be located within 10 feet on any property line.
3. The maximum height for such structure shall not exceed the otherwise allowable height in the zoning district by more than 20 feet. If placed on a roof, any antenna exceeding 8 feet in height shall be mounted with guide wires.
4. Any such structure shall comply with any applicable airport zoning and federal regulations.
5. Radio or television antenna structures located on the ground shall be screened from adjacent properties by evergreen trees or other suitable materials in a specific location approved by the zoning officer.

B. Satellite Dish Antenna

1. A satellite dish antenna is a permissible accessory structure in any zoning district subject to the requirements of this section.
2. Such antenna may be installed in a rear area only provided that no such structure shall be located within 15 feet of any property line.
3. When installed on the ground, the maximum height of a satellite dish antenna shall not exceed 14 feet when positioned vertically and shall have a maximum diameter of 10 feet.
4. A satellite dish antenna may be roof mounted in commercial and industrial districts, provided that the maximum height shall not exceed 15 feet above the roofline, when positioned vertically and the maximum diameter shall not exceed 12 feet.
5. When installed on the ground, the satellite dish antenna shall be screened from adjacent properties by evergreen trees or other suitable materials in a specific location approved by the zoning officer.
6. It shall be the intent of the zoning officer to approve a location that will provide reasonable screening of the satellite from the line of sight of the principle building of adjacent property owners while giving reasonable consideration to the intent of the installation.

C. Exceptions to Requirements

1. Any applicant may apply to the Zoning Hearing Board for a special exception regarding the height, size or placement of a radio, television, or satellite dish antenna when it can be demonstrated that the requirements of this section effectively preclude reception. Should the Zoning Hearing Board require expert technical assistance in making such determination, the cost of such assistance shall be borne by the applicant.

ARTICLE VI

ADMINISTRATION AND ENFORCEMENT

Section 601. Zoning Officer.

It shall be the duty and power of the Zoning Officer to enforce the provisions of this Ordinance. The Zoning Officer shall examine all zoning applications for permits, issue permits for construction and uses which are in strict accordance with the requirements of this Ordinance, refuse to issue permits for construction and uses which are not in strict accordance with the requirements of this Ordinance stipulating any remedial action which may be taken by the applicant, record and file all applications for permits with accompanying plans and documents, make inspections to determine compliance, and make such reports as the Governing Body may require. Permits for construction and uses which are a special exception or a variance to requirements of this Ordinance shall be issued only upon written order of the Zoning Hearing Board.

Section 602. Zoning Hearing Board.

It shall be the duty and power of the Zoning Hearing Board, in accordance with the provisions of this Ordinance, to hear and decide appeals regarding any decision or determination made by the Zoning Officer; to hear and decide applications for special exceptions or variances; to interpret the intent of this Ordinance in respect to zone boundaries, uses not provided for and otherwise; to hold public hearings as required by this Ordinance and as deemed necessary by the Board; to issue Zoning Hearing Board Certificates together with any conditions of approval to be imposed, to refuse to issue Zoning Hearing Board Certificates stipulating, in writing, reasons for such refusal and any remedial action which may be taken by the applicant; to adopt rules of procedure for the conduct of its business; to maintain a public record of all applications received, considerations, and actions; and make such reports as the Governing Body may require.

Section 603. Permits, Applications and Certificates.

For the purpose of this Ordinance, the following provisions shall apply in respect to permits, applications, and certificates:

- A. Requirements of Permits. A zoning permit shall be required prior to the erection, placement, razing, or alteration of any building, or structure, or portion thereof, prior to the use or change in use of a building or land, and prior to the change or extension of a non-conforming use. It shall be unlawful for any person to commence work for the erection or alteration of any building or use until a zoning permit has been duly issued therefore, provided.
- B. Application for Zoning Permits. All applications for zoning permits shall be accompanied by plans in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the exact size and location of any buildings existing on the lot; the lines within which the proposed building or structure shall be erected or altered; the existing and intended use of each building or part of a building; the number and size of any dwelling units within the building; and such other information as may be required on the permit application or otherwise to determine compliance with this Ordinance and all other pertinent Ordinances. One (1) copy of such plans shall be returned to the owner when such plans are approved by the Zoning Officer.

- C. Appeal or Special Applications. An appeal regarding any decision or determination made by the Zoning Officer or application for a special exception or variance from the terms of this Ordinance shall be filed with the Zoning Officer, and shall state:
1. The name and address of the applicant.
 2. The name and address of the owner of the real estate to be affected by the proposed exception or variance.
 3. The names and addresses of all properties adjoining the property upon which the variance or special exception is sought.
 4. A brief description and location of the real estate to be affected by such proposed change.
 5. A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof.
 6. A statement of the section of this Ordinance under which the variance or exception requested must be allowed, and reasons why it should be granted.
 7. A reasonably accurate description of the present improvement, and the additions intended to be made under this application, indicating the size of such proposed improvements, material, and general construction thereof. In addition, there shall be attached a plot plan of the real estate to be affected indicating the location and size of the lot and size of improvements now erected, and proposed to be erected thereon.
- D. Issuance of Permits. No zoning permit shall be issued until the Zoning Officer or other person authorized by the governing body has given written certification that the proposed improvement, alteration and/or addition, complies with all provisions of this Ordinance or until the zoning officer is directed to issue a permit by a Zoning Hearing Board Certificate. Any condition of approval carried by a certificate order shall be indicated on any permit issued under such.
- E. Temporary Permits. A temporary zoning permit may be authorized by the Board for a nonconforming structure or use which it deems beneficial to the public health or general welfare or which it deems necessary to promote the proper development of the community, provided that such non-conforming structure or use shall be completely removed upon expiration of the permit without cost to the Municipality. Such permits shall be issued for a specified period of time not to exceed one (1) year, and may be renewed annually for an aggregate period not exceeding three (3) years.
- F. Zoning Hearing Board Certificates. Certificates indicating the action of the Zoning Hearing Board on appeals or applications for a special exception, or a variance, and authorizing the issuance of a zoning permit shall be issued to the Zoning Officer, with a copy to the applicant, by the Secretary of the Board when authorized to do so by said Board.

- G. Certificate of Non-Conformance. An application for a Certificate of Non-Conformance may be made to the Zoning Officer by the owner of any property which, at the time of the effective date of this Ordinance, does not conform to the provisions of this Ordinance. Such application shall be made within ninety (90) days after the effective date of this Ordinance, and the Certificate of Non-Conformance shall set forth in detail all of the non-conforming conditions of said property. This certificate shall be for the purpose of insuring to such owner the right to continue a non-conforming use, and a copy of the Certificate of Non-Conformance shall be retained by the Zoning Hearing Board.
- H. Certificate by Applicant. It shall be the responsibility of the applicant in all cases to provide such information as required herein under and to certify that such is accurate.

Section 604. Special Exceptions and Variances.

- A. Prior to the approval of an application for a special exception, the Zoning Hearing Board shall determine that all applicable terms and conditions specified under the regulations of the District in which the exception is to be located, and elsewhere in this Ordinance, are met and the Board may condition an approval with such additional requirements as are deemed necessary to achieve the purpose and intent of this Ordinance. In evaluating such applications, the Zoning Hearing Board may (or shall in the absence of other standards) consider the following to determine the appropriateness of the special exception:
1. The presence of adjoining similar uses;
 2. An adjoining zone district in which the use is permitted;
 3. The need for the use in the area proposed as established by the Comprehensive Plan or other valid source;
 4. Sufficient area to effectively screen the conditional use from nearby different uses;
 5. The use will not detract from the permitted uses of the district;
 6. Conditions were such that there were several potential sites for the particular use but not sufficient need to establish a permitting zone district or to leave the district open to the indiscriminate placement of such use;
 7. Sufficient safeguards such as parking, traffic control, screening and setbacks can be effectuated to remove any potential adverse influences the use may have on adjoining uses.
- B. No variance from the strict application of a regulation of this Ordinance or amendment shall be authorized when such variance will impair the intent and purpose of this Ordinance, or be detrimental to the general public; and no variance shall be granted to allow a structure or use in a zoning district where such structure or use is not permitted; and, furthermore, the fact that an applicant may claim financial hardship will be suffered if not granted a variance is not, of itself, sufficient grounds for granting a variance.
- C. Fees for these hearings shall include compensation for the secretary, stenographer and zoning hearing board, notice and advertising costs and necessary administrative overhead connected with the hearing.

Section 605. Fees.

For the purpose of the administration of this Ordinance, the following fees payable to the Municipality are hereby established:

- A. The Borough of Martinsburg may establish from time to time fees for the administration of this Ordinance and for hearings before the zoning hearing board in accordance with the provisions of the Planning Code. The fee schedule, along with an explanation of the collection procedure, shall be posted in the offices of the Zoning Officer. All fees and charges shall be adopted by resolution by Borough Council at any regular or special meeting.
- B. Certificate of Non-Conformance: A fee as set forth in Section 605A shall be paid in advance at the office of the Zoning Officer upon making application for a Certificate of Non-Conformance.
- C. Zoning Hearing Board Certificate: A fee as set forth in Section 605A shall be paid in advance for each appeal or application to the Board for a special exception or variance.
- D. Statement of Classification or Compliance: A fee as set forth in Section 605A shall be paid in advance for each certified statement of district classification of any property and/or compliance of any property with the provisions of this Ordinance.
- E. Changes or Amendments in the Zoning Ordinance and/or Zoning Map: A fee shall be charged for each application and shall be based upon the actual cost to the Municipality for processing the amendment. The said fee shall be as set forth in Section 605A and payable in advance.

Section 606. Violations.

Failure to comply with any provisions of this Ordinance; failure to secure a zoning permit prior to the erection, construction, extension, or addition to a building or change in the use of any building or land as required by this Ordinance; or failure to comply with any conditions imposed shall be a violation of this Ordinance.

- A. Notice of Violation. When written notice of a violation of any of the provisions of this Ordinance has been served by the Zoning Officer on the owner, agent or occupant, contractor, or builder, such violation shall be discontinued immediately.
- B. Enforcement Penalties.
 - 1. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Zoning Ordinance shall, upon being found liable therefore 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 applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district magistrate determines that there was a good faith basis for the defendant to have believed there was no 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 magistrate and thereafter each day that a violation continues shall constitute a separate violation.

2. All judgments, costs and reasonable attorney fees collected for the violation of this Zoning Ordinance shall be paid over to the Borough of Martinsburg. 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. Enforcement Remedies. In case any building, structure or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Ordinance, the Governing Body or, with the approval thereof, the Zoning Officer, in addition to other remedies, may institute in the name of the Municipality any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure or land or to prevent, in or about such premises, any act, conduct, business or use constituting a violation.

Section 607. Appeals to Court.

Any party to the proceedings appearing before the Zoning Hearing Board, or any property owner aggrieved by the decision may appeal that decision or report of the Board, to the Court of Common Pleas of the County of Blair, provided however, that such appeals shall be filed not later than thirty (30) days after receipt of the notice in accordance with Article 10A and 10 of the Municipal Planning Code.

ARTICLE VII

AMENDMENTS, VALIDITY AND ENACTMENT

Section 701. Amendments.

The Borough Council may amend this Ordinance in accordance with the requirements and procedures set forth in the Pennsylvania Municipalities Planning Code, and any amendments thereto.

Section 702. Repealer.

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Section 703. Validity.

All articles, sections, subsections, paragraphs, clauses, phrases or provisions of this Ordinances or the location of all District boundaries shown on the Zoning Map which forms a part thereof are severable, and if any such element shall be declared invalid or unconstitutional by a court of law, the same shall not effect the validity of this Ordinance or Zoning Map as a whole or any part or provisions hereof other than the element so adjudged to be invalid or unconstitutional.

Section 704. Effective Date.

This Ordinance shall become effective immediately after enactment.

Enacted this.

President, Borough Council

ATTEST:

Borough Secretary

Approved the _____ day of ____.

Mayor

Section 705. Schedule of Fees.

(AS THEY RELATE TO THE MARTINSBURG BOROUGH ZONING ORDINANCE NO. 356 OF 1972 AS AMENDED BY ORDINANCE NO. 482 OF 1993)

<u>Construction Cost</u>	<u>Permit Cost</u>
\$ 0 to \$ 1,000	\$15.00
\$ 1,001 to \$13,000	\$15.00 plus \$1.25 for each \$1,000 or fraction thereof over \$1,000
\$13,001 to \$43,000	\$30.00 plus \$1.00 for each \$1,000 or fraction thereof over \$13,000
\$43,001 and over	\$60.00 plus \$0.50 for each \$1,000 or fraction thereof over \$43,000
Demolition Permit (see section 603A):	\$ 5.00
Certificate of Non-Conformance (see section 605B):	\$ 5.00
Zoning Hearing Board Certificate (see section 605C):	\$ 250.00
Statement of Classification or Compliance (see section 605D):	\$ 5.00
Changes or Amendments in the Zoning Ordinance and/or Zoning Map (see section 605E):	\$ 250.00
Enforcement Penalty (see section 606B):	\$ 500.00

This Resolution was duly adopted this 7th day of September, 1993.

BOROUGH OF MARTINSBURG

BY: _____
President

ATTEST:

Secretary

NOW, this day of, this Resolution is approved.

Mayor