

**ORDINANCE NO. 377A
MEYERSDALE BOROUGH, SOMERSET COUNTY**

AN ORDINANCE OF THE BOROUGH OF MEYERSDALE, SOMERSET COUNTY, PENNSYLVANIA PROVIDING FOR THE REZONING OF CERTAIN PROPERTIES LOCATED ALONG CENTER STREET AND LARGE STREET TO C – COMMERCIAL AND AMENDING THE MEYERSDALE BOROUGH ZONING MAP IN ACCORDANCE THEREWITH.

WHEREAS, the owners and equitable owner of seven (7) adjacent parcels of land located along Center Street and Large Street have requested that their parcels be rezoned to C-Commercial; and

WHEREAS, the Meyersdale Borough Council has, in carrying out the provisions of the Meyersdale Borough Zoning Ordinance, forwarded the rezoning applications to the Meyersdale Borough Planning Agency and the Somerset County Planning Agency for comment.

WHEREAS, after review of the rezoning applications and consultation with the Borough officials responsible for administration of the Zoning Ordinance, the Borough Council set forth the proposed rezoning and amendment to the Zoning Map for public hearing and comment as provided in the Zoning Ordinance and Municipalities Planning Code.

WHEREAS, the Meyersdale Borough Council, after consultation with the Borough Planning Commission and Somerset County Planning Commission, and after having received the benefit of public comment at a public meeting held June 25, 2008 and after debate and discussion at its regular public meeting on July 8, 2008, has determined that certain parcels within the Borough of Meyersdale should be rezoned to C-Commercial to provide for orderly development, the protection of property values, and to provide for the common good and safety of all Borough residents.

NOW THEREFORE, be it ordained and enacted that the following parcels be and hereby are rezoned and that the zoning map be amended as follows:

SECTION 1. The following parcels are hereby rezoned and the Zoning Map is hereby amended to reflect a change in zoning from R1–Residential District to C–Commercial District:

<u>TAX PARCEL NO.</u>	<u>RECORD OWNERS</u>	<u>ADDRESS</u>
026-026-363	Robert L. Geiger and Simone Geiger	10 Center Street Meyersdale, PA 15552

026-026-364	Emma M. Pletcher	107 Large Street Meyersdale, PA 15552
026-026-365	Trustees of Disciples Church of Meyersdale, PA	16 Center Street Meyersdale, PA 15552
026-026-366	Trustees of the Christian Church	16 Center Street Meyersdale, PA 15552
026-031-29	Church of Christ	16 Center Street Meyersdale, PA 15552

SECTION 2. The following parcels are hereby rezoned and the Zoning Map is hereby amended to reflect a change in zoning from RC–Recreation/Conservation District to C–Commercial District:

<u>TAX PARCEL NO.</u>	<u>OWNER(S)</u>	<u>ADDRESS</u>
026-031-030	Carol E. Steinly	115 Large Street Meyersdale, PA 15552
026-013-290	Donna M. Otto	135 Large Street Meyersdale, PA 15552

SECTION 3. This Ordinance and the various parts, sentences, paragraphs, sections and clause it contains are hereby declared to severable. Should any court of competent jurisdiction for any reason adjudge any part, sentence, paragraph, section or clause unconstitutional or invalid, such judgment shall not affect the validity of this Ordinance as a whole nor any part thereof, other than the part so declared to be unconstitutional or invalid. Furthermore, should the application of any provision of this Ordinance to a particular property, building, or structure be adjudged invalid by any court, such judgment shall not affect the application of said provision to any other property, building, or structure. judgment.

SECTION 4. All ordinances or parts of other ordinances of the Borough in conflict with this Ordinance are hereby repealed.

SECTION 5. A summary of this Ordinance was published on June 12, 2008 and June 16, 2008 in the Somerset Daily American and the Johnstown Tribune Democrat, and was posted on the subject properties beginning on June 18, 2008. The Ordinance was available for inspection at the Borough Office and Somerset County Law Library beginning on June 11, 2008.

**ORDINANCE NO. 377B
MEYERSDALE BOROUGH, SOMERSET COUNTY**

AN ORDINANCE OF THE BOROUGH OF MEYERSDALE, SOMERSET COUNTY, PENNSYLVANIA PROVIDING FOR THE AMENDMENT OF CERTAIN SETBACKS, HEIGHT REGULATIONS, AND LOT REQUIREMENTS

WHEREAS, the Borough of Meyersdale after review of the proposed amendments and modifications of the current Zoning Ordinance with the Borough officials responsible for administration of the Zoning Ordinance, the Borough Council set forth proposed rezoning and amendments to the current Zoning Ordinance and Zoning Maps for public hearing and comment as provided in the Zoning Ordinance and Municipalities Planning Code.

WHEREAS, the Meyersdale Borough Council, after consultation with the Borough Planning Commission and Somerset County Planning Commission, and after having received the benefit of public comment at a public meeting held June 25, 2008 and after debate and discussion at its regular public meeting on July 8, 2008, has determined that certain parcels within the Borough of Meyersdale should be rezoned, and that certain amendments and modification to the current Zoning Ordinance should be enacted to provide for orderly development, the protection of property values, and to provide for the common good and safety of all Borough residents.

NOW THEREFORE, be it ordained and enacted that the following parcels be and hereby are rezoned and that the zoning map be amended as follows:

SECTION ONE:

AMENDMENT TO THE OFFICIAL ZONING MAP

- Re-Zoning to Light Industrial (LI) of the area generally characterized by Meyersdale Medical Center and defined more specifically as follows: beginning at the intersection of Fourth Ave. and Sherman St, extending northeast along Sherman St. to First Ave, extending southeast along First Ave. until reaching the border of Meyersdale Borough and extending southeast along the border back to Fourth Ave.
- Re-Zoning to Single Household Residential (R1) the properties on Large Street to the East of Lichty Street and identified on the *Property Map, Summit Twp. & Meyersdale Boro.*, revised 7-24-01 as parcels 31, 32, 33, and 34.
- Re-Zoning to Single Household Residential (R1) the property on Large Street to the East of Lichty Street and identified on the *Property Map, Summit Twp. & Meyersdale Boro.*, revised 7-24-01 as parcel 30 as an alternate to the concurrent request to rezone said parcel as Commercial (C).
- Addition of the Downtown Redevelopment (DR) Overlay District to the Official Zoning Map. Boundaries include: the area of Center St. beginning at Monument/Market Sq. and extending to North St. AND the area of Main Street beginning at Grant St (SR 219 Business) to Cherry St.

Be it further ordained and enacted that the Zoning Ordinance is amended and modified to now read as follows:

SECTION TWO:

AMENDMENT TO SECTION 205: ESTABLISHMENT OF ZONING DISTRICTS

To properly carry out the purposes of this ordinance as listed in *Article 1, Section 112, "The General Purposes of This Ordinance,"* the Borough of Meyersdale is hereby divided into 7 zoning districts. These districts shall be designated as follows:

ENACTED and ORDAINED the 8th day of July, 2008 effective in 10 days.

ATTEST:

MEYERSDALE BOROUGH COUNCIL

Patricia C. Ackerman
Secretary
(Seal)

Frank S. Edmunds
President of Council
Michael D. Brant
Mayor

I hereby certify that the foregoing Ordinance was advertised in the Daily American and the Johnstown Tribune Democrat, June 12, 2008 and June 16, 2008, newspapers of general circulation in the Municipality and was duly ENACTED AND APPROVED as set forth at a Regular Meeting of the Borough of Meyersdale held July 8, 2008.

Patricia C. Ackerman
Patricia C. Ackerman
Borough Secretary

I hereby certify this to be a true and correct copy of Ordinance #377A.

Patricia C. Ackerman
Patricia C. Ackerman

THE ZONING DISTRICT'S FULL NAME	THE ZONING DISTRICT'S ABBREVIATED NAME
Single Household Residential District	R1
Two Household Residential District	R2
Multi-Household/Light Commercial District	R3
Commercial District	C
Downtown Redevelopment (DR) Overlay District	DR
Light Industrial District	LI
Agricultural District	A
Recreation/Conservation District	RC

ADDITION OF SECTION 232: The DR, DOWNTOWN REDEVELOPMENT OVERLAY DISTRICT

- A. **District Purposes:** The Downtown Redevelopment (DR) Overlay District appears on the Official Zoning Map as an “overlay district,” imposed on top of other districts created by this Ordinance in order to define regulations specific to the core section of the business district. The regulations of this Section are intended to govern all development; redevelopment; building construction, alteration, and modification; all related physical activity; and all uses.
- B. **District Boundaries and Mapping:** The Downtown Redevelopment (DR) Overlay District shall be mapped as provided on the Zoning Map as amended, which includes, two areas defined as follows.
- a. AREA 1 of the “DR” District includes: the blocks on both sides of the street, located immediately adjacent to Center Street beginning at the intersection with Market Square and extending along Center Street to the intersection with North Street.
 - b. AREA 2 of the “DR” District includes: the blocks on both sides of the street, located immediately adjacent to Main Street beginning at Grant Street and continuing along Main Street to the intersection with the railroad tracks adjacent to Cherry Street.
- C. **Application of Base Regulations**
Development of property in the DR Overlay District must comply with the regulations of the DR Overlay District and with the regulations of the base district in which they are located. When there is any conflict between the regulations of the DR Overlay District and the regulations of the base district, the regulations, the stricter of the two shall control.
- D. **Special Design Parameters and Regulations for the “DR” District**
1. The design for expansions, redevelopment, renovations, reconstructions and new construction of buildings in this district shall be based on high quality architectural style and construction methods. Designs that are consistent with the dominant historic features of the District in terms of scale, height, design, and

materials and restore the architectural integrity of the downtown are strongly recommended.

2. All additions, modifications, expansions, and renovations in this District shall complement the architectural style of the main structure.
3. Setbacks for this district are provided in Article II, Section 270.
4. The following accent features add detail and are encouraged: overhangs, cornices, string courses, peaked roof forms, arches, window sills, transoms, historic style hanging signs, decorative and other forms of gooseneck lighting, outdoor patios, structural canopies, awnings, porticos, flower boxes, accent painting, recessed panels for storefront façade, tile work, decorative molding, integrated planters or wing walls with landscape and sitting areas
5. Use of the buildings and all other property within the DR Overlay District shall be designed in a manner to promote an appropriate and functional balance of high quality retail shops, office spaces, restaurants, and residential dwellings
6. Pedestrian-friendly features such as inviting storefronts, landscaped walkways, comfortable street furniture, plazas and other gathering places, aesthetically pleasing signage, convenient passage from building to building and to parking, and similar thoughtful, quality design features are strongly recommended.
7. Use of reflective glazing shall be avoided on the ground floor. However, if specialized retail items or activities require a type of reflective glazing, the developer may request approval. Use of reflective glazing on the second level and above is subject to review.
8. Structural awnings/canopies are encouraged at the ground level to enhance building façades, provide shade, and provide protection for the sidewalk, and provide cover for pedestrians.
9. Awnings and canopies shall be placed to allow for adequate spacing between the awning/canopy and street trees, lighting, utility poles, and other street features. The material of awnings and canopies shall complement the building. Materials such as metal and wood are recommended. Fabrics may be allowed; however, vinyl is not recommended.
10. Accessory structures including outdoor recreational equipment shall not be placed in the front or side yard area of lots in the "DR" District.
11. All mechanical units and services areas shall be screened from public view. This includes, but is not necessarily limited to, the following: air conditioners, transformers, trash collection equipment, off-street loading areas, etc.
12. When roof decks with mechanical units are visible from the street, they shall be as unobtrusive as possible and painted to match finish roof material. The addition of parapet walls enclosing the mechanical units is encouraged.
13. Trash collection areas, loading areas, and services areas must be incorporated into the building envelope or screened by a masonry or painted/stained wood wall at least six feet (4') or one foot (1') higher than the container it screens (whichever is higher).
14. All screening will be complementary to the building served in material and landscaping approach through the use of a similar material palette.

AMENDMENTS TO SECTION 270: SETBACKS, HEIGHT REGULATIONS, AND LOT REQUIREMENTS

A. The Purposes, Organization, and Applicability of this Section: The function of this section is to provide district-specific (1) minimum setback restrictions for structures, (2) maximum setback restrictions for structures, (3) maximum height regulations for structures, (4) minimum area requirements for lots, (5) minimum frontage requirements for lots, and (6) maximum lot coverage requirements for structures. The main body of this section's regulations can be found in the table under *letter "C."* The various

regulations discussed above form this table's rows, and Meyersdale's 7 zoning districts form the table's columns. Exceptions to the regulations shown in this table are listed under *letter "B."* Note that the exact definitions of the terms and regulations used in this section can be found in *Article 8, "Terminology."*

Because the regulations of this section apply to each of Meyersdale's 7 zoning districts, they apply to every building, structure, and lot in the Borough -- except those noted under *letter "B"* below.

B. Exceptions to the Regulations of this Section:

1. Building and structure projections may exceed the height limits of their district if they are one of the following items.
 - a. A chimney or smokestack
 - b. A public or commercial communications tower that contains public or commercial communications equipment and is mounted on the ground. However, commercial communications equipment that rises from the roof of a building shall not be exempted from the height requirements of its district.
 - c. An integral part of a commercial or industrial process whose height is necessary in order for the process to work (e.g., a grain elevator)
 - d. A steeple, cupola, spire, belvedere, turret, or other similar architectural element that rises from the roof of a building, but does not include a dwelling
2. Fences, walls, and other screens may ignore this section's setback requirements, but must follow the requirements of *Section 510, "Fences, Walls, and Other Screens."* Likewise, radio and television antennas may ignore this section's setback requirements, but must follow the requirements of *Section 515, "Radio and/or Television Antennas."*
3. Signs may ignore this section's setback requirements, but must follow the requirements of *Article 6, "Signs."*

C. The Setback, Height Regulation, and Lot Requirement Table:

1. All lots, buildings, garages, sheds, and other structures -- except those noted under *letter "B"* above -- shall follow the regulations in the table below:

	REGULATION	R1	R2	R3	C	LI	A	RC
	minimum front setback for non-corner lots	10 ft	10 ft	10 ft.	10 ft.*	10 ft.	10 ft.	20 ft.

	REGULATION	R1	R2	R3	C	LI	A	RC
non-corner lots	minimum side setback for non-corner lots	8 ft	8 ft.	8 ft.	8 ft. *	10 ft	6 ft.	20 ft.
	minimum rear setback for non-corner lots	10 ft	10 ft	10 ft.	6 ft.*	10 ft.	6 ft.	20 ft.
corner lots	minimum front setback for corner lots	10 ft.	10 ft.	10 ft.	10 ft.*	10 ft.	10 ft.	20 ft.
	minimum side street setback for corner lots	10 ft.	10 ft.	10 ft.	10 ft. *	10 ft.	10 ft.	20 ft.
	minimum non-side street setback for corner lots	8 ft	8 ft.	8 ft.	8 ft.*	10 ft	6 ft.	20 ft.
	minimum rear setback for corner lots	10 ft.	10 ft.	10 ft.	10 ft.	15 ft	6 ft.	20 ft.
height restrictions	maximum height for permitted principal uses	35 ft.	35 ft.	35 ft.	50 ft	100 ft.	100 ft.	35 ft.
	maximum height for permitted accessory uses	25 ft	25 ft	25 ft.	25 ft	40 ft.	40 ft.	35 ft.
lot areas	minimum lot area for lots that do not contain a gas station				3,000 sq. ft.	4,000 sq. ft.		
	minimum lot area for lots that contain a gas station				12,500 square feet	12,500 square feet		
	minimum lot frontage	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.	90 ft.
	maximum lot coverage	60%	60%	60%	80%			30%

* For structures in the Downtown Redevelopment (DR) Overlay District as defined on the Meyersdale Zoning Map, the following setbacks shall apply:

non-corner lots	minimum front setback for non-corner lots	Align front of Structure to match "Existing Building Line"
	minimum side setback for non-corner lots	0 ft
	minimum rear setback for non-corner lots	10 ft
corner lots	minimum front setback for corner lots	Align front of Structure to "Existing Building Line"
	minimum side street setback for corner lots	5 ft.
	minimum non-side street setback for corner lots	0 ft
	minimum rear setback for corner lots	10 ft.

**SECTION THREE:
AMENDMENTS TO SECTION 154: NONCONFORMITIES**

A. The Purpose, Organization, and Applicability of this Section: A nonconformity is defined for the purposes of this ordinance as a land use, lot, or structure that (1) was legally established before the effective date of this ordinance's enactment (see *Section 118, "The Effective Date of This Ordinance's Enactment"*), and (2) does not conform to the substantive regulations of this ordinance. Because nonconformities were legally established, and because their owners could not have known what the regulations of this ordinance were going to be in advance, the owners have a legal and ethical right to continue their nonconformities. However, this ordinance would be unable to fulfill most of its purposes from *Section 112*; do much to protect the people, homes, and businesses of Meyersdale from facilities that do not follow this ordinance; or have much of an effect on the Borough over the next half-century if it could not eliminate nonconformities. Thus, a compromise must be provided that allows the owners of nonconforming uses, structures, or lots to use and maintain these investments while this ordinance gradually eliminates them. The purpose of this section is to provide such a compromise.

Note that this section does not regulate nonconforming signs -- *Article 6* does. With this sole exception, *letter "B"* provides some rules concerning nonconforming structures, land uses, and lots. *Letter "C"* only addresses nonconforming structures, and *letter "D"* only addresses nonconforming land uses.

B. General Rules Concerning Nonconformities: The following rules apply to or concern all nonconforming structures, land uses, and lots.

1. The Zoning Officer shall keep and maintain a list of all nonconformities that exist in the Borough on the effective date of this ordinance's enactment (see *Section 118, "The Effective Date of This Ordinance's Enactment"*) and on the effective dates of any amendments to either this ordinance or its map.
2. The owner of a nonconformity may obtain a "certificate of nonconformity" from the Borough's Zoning Officer. This certificate shall state that the owner's right to continue his or her nonconformity is guaranteed.
3. Aggrieved parties and the involved landowner may both appeal the Zoning Officer's determination of whether or not a property is nonconforming according to the rules of *Section 169, "Appealing the Determination of a Municipal Officer."*
4. Any structure, land use, or lot that was illegally established under a previous zoning ordinance or land use regulation shall remain illegal under this ordinance,

even if it conforms to the regulations of this ordinance. No illegal structure, land use, or lot shall become a nonconformity under this ordinance.

5. Any structure, land use, or lot that becomes a nonconformity due to an amendment made after the effective date of this ordinance's enactment shall be subject to the regulations of this section.

C. Nonconforming Structures or Buildings: The following rules apply to all nonconforming structures.

1. A nonconforming structure or building may be altered, enlarged, renovated or repaired, provided that:
 - a. its nonconformity or nonconformities are not increase
 - b. It will comply with the other applicable requirements of this ordinance
 - c. all necessary zoning and occupancy permits are obtained (see *Sections 148 and 151*)
 - d. all applicable building codes are followed
 - e. it has not been abandoned, which shall be defined as having its windows or doors boarded up, having its maintenance discontinued, and/or being unused for a total of *6 months within an 12 month period*
 - f. the alteration, expansion, renovation and/or repair:
 - 1) does not eliminate off-street parking spaces or loading berths required by this ordinance
 - 2) will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk, or parking area;
 - 3) will not substantially impair, alter, or detract from the value, use, or enjoyment of surrounding properties via fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise, or other noxious, offensive, or hazardous elements;
 - 4) is consistent with the character and type of development in the area surrounding the involved lot;
2. A nonconforming structure or building may be reconstructed after it is partially destroyed by a natural or artificial disaster, and any nonconforming use within it may be continued, provided that:

- a. its nonconformity or nonconformities are not increased
 - b. it will comply with the other applicable requirements of this ordinance
 - c. all necessary zoning and occupancy permits are obtained (see Sections 148 and 151)
 - d. all applicable building codes are followed
 - e. it has not been abandoned, which shall be defined as having its windows or doors boarded up, having its maintenance discontinued, and/or being unused for a total of 6 months within an 12 month period
 - f. a zoning permit has been acquired for its reconstruction within one year of the involved disaster
 - g. the damage to it does not exceed 99% of its fair market value
3. A conforming use in a nonconforming structure may expand within that structure.

D. Nonconforming Uses: The following rules apply to all nonconforming uses.

1. To allow for natural economic growth, a nonconforming use may expand in terms of gross floor area or lot coverage -- provided that the use's owner can prove to the Borough's Zoning Hearing Board, via the procedure outlined in *Section 705, "The Zoning Hearing Board,"*⁵ that:
 - a. no aspect of the structure or structures that contain or will contain the use shall become either nonconforming or more nonconforming than it was before
 - b. the use does not expand on to property that was acquired after the use became nonconforming
 - c. the expansion does not eliminate off-street parking spaces or loading berths required by this ordinance
 - d. it will comply with the other applicable requirements of this ordinance
 - e. it has not been abandoned, which shall be defined as having its windows or doors boarded up, having its maintenance discontinued, and/or being unused for a total of 6 months within an 12 month period
 - f. all necessary zoning and occupancy permits are obtained (see Sections 148 and 151)
 - g. all applicable building codes are followed
 - h. such an expansion is necessary to accommodate a normal increase in business
 - i. all applicable building codes are followed
 - j. the expansion will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk, or parking area;
 - k. the expansion will not substantially impair, alter, or detract from the value, use, or enjoyment of surrounding properties via fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage

⁵Note that the Zoning Hearing Board's decision on this matter may be appealed to the court of common pleas of the judicial district in which the involved property is located.

fluctuations, smoke, noise, or other noxious, offensive, or hazardous elements;

- I. the proposed expansion to the structure is consistent with the character and type of development in the area surrounding the involved lot;
2. If a nonconforming use is changed to a conforming use, it shall not be subsequently changed back to a nonconforming use.
3. A nonconforming use may be changed to another nonconforming use if the use's owner can prove to the Borough's Zoning Hearing Board -- via the procedure outlined in Section 705, "The Zoning Hearing Board"⁶ -- that the proposed use is the same type of use as the original use, or is a use that conforms more closely to the purpose and regulations⁷ of the involved zoning district than the original use. In making a judgment on similar uses, the Zoning Hearing Board shall be guided by the use classification system in the Standard Industrial Classification Manual, Federal Office of Management and Budget, current edition.
4. A nonconforming use that has been abandoned shall not be returned to a nonconforming use of any kind. A nonconforming use shall be abandoned when one or more of the following conditions have been met
 - a. The owner's intent to discontinue the use is apparent through such actions as the boarding up of windows, the boarding up of entrances, or the discontinuation of maintenance.
 - b. The use has been discontinued for a total of 6 months within a 12 month period.
 - c. The use has been replaced by a conforming use.
 - d. The use has been changed to another nonconforming use as required by letter "D," number 3 above.
5. A special exception or conditional use shall not be considered a nonconforming use, but rather a lawful conforming use.
6. Any use that (1) exists at the effective date of this ordinance's enactment (see *Section 118, "The Effective Date of This Ordinance's Enactment"*), (2) is allowed in its zoning district only as a special exception or conditional use, and (3) has not been recognized as a special exception or conditional use as required by *Article 3 ("Special Exceptions and Conditional Uses")* shall be a nonconforming use.

**SECTION FOUR:
AMENDMENTS TO SECTION 265: LAND USES, OFF-STREET PARKING, AND OFF-STREET LOADING**

⁶Note that the Zoning Hearing Board's decision on this matter may be appealed to the court of common pleas of the judicial district in which the involved property is located.

⁷Setbacks, height regulations, lot requirements, and off-street parking and loading requirements shall be considered here, along with any of this ordinance's other regulations that the Zoning Hearing Board decides are relevant.

D. The Land Use, Off-Street Parking, and Off-Street Loading Requirements Table:

All lots, structures, and land uses in the Borough of Meyersdale shall follow the requirements of the table below, as explained above.

bicycle repair and/or rental shop	a	a	a	P a	P a			1 space per each 350 sq. ft. of enclosed gross floor area	1 berth for each 10,000 sq. ft. of enclosed gross floor area
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E. OTHER RULES APPLYING TO OFF-STREET PARKING and OFF-STREET LOADING

1. Driveways are prohibited from extending into the front yard for residential structures in the R1 and R2 districts.

SECTION FIVE:

AMENDMENTS TO SECTION 310: THE STANDARDS THAT ARE TO BE USED TO GRANT A SPECIAL EXCEPTION OR A CONDITIONAL USE

2. BAIT SHOP -- These may be permitted in the R1, R2 and R3 District as special exceptions only if...

4. BEAUTY PARLORS AND BARBERSHOPS -- These may be permitted or an accessory use in the R1, R2 and R3 Districts as special exceptions only if...

7. CONVENIENCE STORE -- These may be permitted in the R1, R2, and R3 District as special exceptions only if...

27. Rental Apartment and Condominium Housing: These may be permitted in the R1 and R2 District as special exceptions only if...

- a. The proposed land use will support the goals of this ordinance to provide an appropriate mix of affordable housing for all persons who live in the borough and encourage the redevelopment of existing structures to better reflect demographic trends.
- b. The proposed land use will encourage the development of townhouse type housing or the reuse of existing structures for multi-family style middle to high end rental properties.
- c. the proposed land use will follow all provisions of this ordinance, including all parking and buffering requirements;
- d. The characteristics are such that there are unique and peculiar physical conditions present on the involved property, such as the size, shape, or topography of the involved lot or structure, that were not created by the current owner or the provisions of this ordinance; and that because of these conditions, the possibility that the

involved property can be developed in strict conformity with the provisions of this ordinance is significantly limited such that if these provisions were rigidly implemented, the property would be virtually unusable and without significant economic value;

- e. the proposed land use constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot;
- f. the proposed land use will not substantially impair, alter, or detract from the value, use, or enjoyment of surrounding properties via fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise, or other noxious, offensive, or hazardous elements;
- g. the proposed use will not congest the Borough's streets or highways;
- h. the proposed use will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk, or parking area;
- i. the proposed use will provide for safe automobile and truck access that, where possible, minimizes the total number of access points on the involved street or highway and provides ample storage space on driveways for vehicles leaving the premises;
- j. the proposed use will not require an uneconomical, inefficient, or illogical extension of public utilities and services;
- k. refuse from the proposed use will be stored in a location that is as undetectable as possible from neighboring lots, and will be removed for disposal regularly; and
- l. the proposed use will not threaten the safety, health, morals, and general welfare of the Borough and its citizens.

**SECTION SIX:
AMENDMENTS TO SECTION 510: FENCES, WALLS, AND OTHER SCREENS**

- A. Section Purpose: Fences, walls, and other screens can provide many benefits both to the owner of the property on which they are situated and to the public at large. However, certain aspects of these structures must be limited in order to protect a community's appearance and public safety. This section's purpose is to provide such limits.
- B. Fence, Wall, and Other Screen Limitations: Fences, walls, and other screens may be erected in any yard subject to their zoning district's requirements, the limitations in the following table, and the controls of Subsection "C" below. Note that heights should be measured from the existing ground elevation.

REGULATION		REQUIREMENT	EXCEPTIONS
MAXIMUM HEIGHT in front yards in all other yards		4 feet 6 feet	Fences, walls, and other screens up to 10 feet in height may be approved as a special exception under the conditions of Article 3, "Special Exceptions and Conditional Uses."

REGULATION		REQUIREMENT	EXCEPTIONS
MINIMUM SETBACKS FOR STANDARD FENCES (Four (4) feet or less maximum height)	NON-CORNER LOTS front setback side setbacks rear setback	3 feet 1.5 feet 3 feet	None.
	CORNER LOTS front setback side street setback non-side street setbacks rear Setback	3 feet 3 feet 1.5 feet 3 feet	None.
MINIMUM SETBACKS FOR NON-STANDARD FENCES (Greater than 4 feet in height)	NON-CORNER LOTS front setback side setbacks rear setback	10 feet 1.5 feet 10 feet	Fences, walls, and other screens up to 10 feet in height may be approved as a special exception under the conditions of <i>Article 3, "Special Exceptions and Conditional Uses."</i>
	CORNER LOTS front setback side street setback non-side street setbacks rear Setback	10 feet 10 feet 1.5 feet 10 feet	Fences, walls, and other screens up to 10 feet in height may be approved as a special exception under the conditions of <i>Article 3, "Special Exceptions and Conditional Uses."</i>
MAXIMUM SOLID TO OPEN PORTION RATIO for all fences, walls, and screens		3:4	Living fences composed of plants may ignore this requirement. A non-living fence, wall, or screen that exceeds this ratio may be approved as a special exception under the conditions of <i>Article 3, "Special Exceptions and Conditional Uses."</i>

C. Other Fence, Wall, and Screen Regulations

1. A fence, wall, or screen shall not be erected in a public or dedicated right-of-way.
2. No fences, walls, or screens except for a two strand wire fence shall be constructed in the Borough's floodplain, as defined by *Borough Ordinance 390 (enacted August 28, 1989)* or any subsequent revisions thereof.
3. A fence, wall, or screen shall not block the clear sight distance at street sections or driveways
4. A fence, wall, or screen shall not include barbs, thorns, other harmful projections, or electric wires designed to shock unless it is approved by the Zoning Hearing Board as a special exception under the standards of *Article 3, "Special Exceptions and Conditional Uses."*
5. The finished side of fences, walls, or screens shall always face any abutting streets or properties.

6. Fences, walls, and screens shall be appropriate to the character and architectural concepts of their surroundings.
7. Fences, walls, and screens shall not hinder the appropriate development, use, or value of buildings on adjacent lots.

D. Zoning Permits: A fence, wall, or screen shall require a zoning permit, as described in *Section 148, "Zoning Permits."*

E. Required Fencing around Private Swimming Pools: In order to minimize the chances of small children and other persons drowning, all private swimming pools shall be enclosed by a fence, wall, or screen 4 feet in height as measured from the existing ground elevation. This enclosure shall be able to be locked to prevent accidental or unauthorized entry, and shall contain open areas no larger than would be necessary to permit the entry -- through the enclosure -- of a ball with a diameter of 4 inches. The height requirement for fences enclosing above-ground pools maybe met via a fence attached to the pool wall, in which the lowest ground elevation at any point for pool and fence combined is 4 feet.

AMENDMENTS TO ARTICLE VIII – TERMINOLOGY

BED AND BREAKFAST ESTABLISHMENT - The provision of overnight accommodations for transient guests on a daily or weekly basis.

SETBACK - The distance that must be maintained between all parts (except for walks and steps) of all buildings (except permitted accessory uses as stipulated) and a specified lot line or publicly held right-of-way. In this ordinance, this distance is sometimes expressed as a range between a *MINIMUM SETBACK* (i.e., the smallest distance that may exist between a relevant building and a specified lot line or publicly held right-of-way) and a *MAXIMUM SETBACK* (i.e., the largest distance that may exist between a relevant building and a specified lot line or publicly held right-of-way). More often, this distance is expressed simply as a minimum setback (i.e., no maximum setback is given). There are five kinds of setbacks, which differ only in that they are measured from different specified lot lines or publicly held right-of-ways.

- A. **Front Setback:** The distance that must be maintained between all parts (except for walks or steps) of all buildings (except permitted accessory uses as stipulated) and the front lot line. The area between the front lot line and the line formed by the main front of the principal building(s) is the *FRONT YARD*.
- B. **Side Setback** (*this is applicable only to lots which are not corner lots*): The distance that must be maintained between all parts (except for walks or steps) of all buildings (except permitted accessory uses as stipulated) and the side lot line on the side of the lot to which those parts are closest. The area between a side lot line and the line formed by the side of the principal building(s) that is closest to that side lot line is the *SIDE YARD*.
- C. **Rear Setback:** The distance that must be maintained between all parts (except for walks or steps) of all buildings (except permitted accessory uses as stipulated) and the rear lot line. The area between the rear lot line and the line formed by the rear of the principal building(s) is the *REAR YARD*.

- D. Side Street Setback (*this is applicable only to corner lots*): The distance that must be maintained between all parts (except for walks or steps) of all buildings (except permitted accessory uses as stipulated) and the side street lot line. The area between the side street lot line and the line formed by the side of the principal building(s) that is closest to the side street is the *SIDE STREET YARD*.
- E. Non-Side Street Setback (*this is applicable only to corner lots*): The distance that must be maintained between all parts (except for walks or steps) of all buildings (except permitted accessory uses as stipulated) and the non-side street lot line. The area between the non-side street lot line and the line formed by the side of the principal building(s) that is closest to the non-side street lot line is the *NON-SIDE STREET YARD*.

If the sidewalks directly in front of any lot are not legally included as a part of that lot, then six feet shall be **ADDED TO** that lot's minimum and maximum front setback requirements. If the sidewalks directly along the side street side of a corner lot are not legally included as a part of that lot, then six feet shall be **ADDED TO** that lot's minimum and maximum side street setback requirements. These adjustments are to compensate for the **ADDITIONAL** setbacks for the involved lot **TO ACCOMODATE THE CONSTRUCTION OF REQUIRED SIDEWALKS**, and may not be interpreted as allowing the construction of a structure beyond the lot's legal boundaries.

ADDITION TO ARTICLE VIII – TERMINOLOGY

Existing building line: The point at which the front façade of existing structures on the affected block meet up with the existing sidewalk. If no structure currently exists on the lot where development is proposed, the surrounding structures on the same block shall dictate. If the placement of the surrounding structures on the same block varies, the structure closest to the inside face of the existing curb shall define the existing building line.

SECTION SEVEN. This Ordinance and the various parts, sentences, paragraphs, sections and clause it contains are hereby declared to severable. Should any court of competent jurisdiction for any reason adjudge any part, sentence, paragraph, section or clause unconstitutional or invalid, such judgment shall not affect the validity of this Ordinance as a whole nor any part thereof, other than the part so declared to be unconstitutional or invalid. Furthermore, should the application of any provision of this Ordinance to a particular property, building, or structure be adjudged invalid by any court, such judgment shall not affect the application of said provision to any other property, building, or structure. judgment.

SECTION EIGHT. All ordinances or parts of other ordinances of the Borough in conflict with this Ordinance are hereby repealed.

SECTION NINE. A summary of this Ordinance was published on September 4, 2008 and in the New Republic and was posted on the subject properties beginning on September 2, 2008. The Ordinance was available for inspection at the Borough Office and Somerset County Law Library beginning on September 2, 2008.

ENACTED and ORDAINED the 14th.day of October, 2008 effective in 10 days.

ATTEST:

MEYERSDALE BOROUGH COUNCIL

Patricia C. Ackerman
Secretary
(SEAL)

Franklin B. Edmunds
President of Council

Michael D. Brant
Mayor

I hereby certify that the foregoing Ordinance was advertised in the New Republic, September 4, 2008, a newspaper of general circulation in the Municipality and was duly ENACTED AND APPROVED as set forth at a Regular Meeting of the Borough of Meyersdale held October 14, 2008.

Patricia C. Ackerman
Patricia C. Ackerman
Borough Secretary

I hereby certify this to be a true and correct copy of Ordinance #377-B.

Patricia C. Ackerman
Patricia C. Ackerman
Borough Secretary

DR - OVERLAY DISTRICT

