
ZONING ORDINANCE

OF

THE BOROUGH OF MEYERSDALE

SOMERSET COUNTY, PENNSYLVANIA

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**ARTICLE I
GENERAL PROVISIONS**

SECTION 100: ENACTMENT

The Borough Council of the Borough of Meyersdale hereby adopts and enacts the regulations, zoning districts, administrative structures, and administrative procedures that constitute this Zoning Ordinance. From and after the approval of this Ordinance, the districts specified herein shall be established, and the following regulations shall be in full force and effect.

SECTION 103: SHORT TITLE

This ordinance shall be known as the "Borough of Meyersdale Zoning Ordinance No. 377."

SECTION 106: A READER'S GUIDE TO THE ORGANIZATION AND APPLICABILITY OF THIS ORDINANCE

This ordinance regulates all land uses, lots, and structures within the Borough of Meyersdale except those that are the property of the Borough itself. Every regulated land use, lot, or structure must either conform to the rules of this ordinance or be a nonconforming use, nonconforming lot, or nonconforming structure. A nonconformity is defined as a use, lot, or structure that (1) was legally established before the effective date of this ordinance's enactment (see *Section 118, "The Effective Date of This Ordinance's Enactment"*), and (2) does not conform to the substantive requirements 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, all nonconformities, except nonconforming signs, are subject to the regulations of *Section 154, "Nonconformities."* Special regulations for nonconforming signs are given in *Article 6, "Signs."* All regulated land uses, lots, and structures that are neither in conformance with the controls of this ordinance nor nonconformities are illegal -- and subject to the enforcement procedures and penalties specified in *Section 160, "Enforcement."*

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

All of the provisions in this ordinance that affect Meyersdale's property owners on a daily basis, and apply to all properties within the Borough are included in *Article 1, "General Provisions."* The sections in the remainder of *Article 1* explain the general purposes of this ordinance, what its basic rules are, when zoning or occupancy permits are needed, how to get these permits, what extra regulations apply to nonconforming uses, definitions of a variance is, how to get a variance, how the ordinance will be enforced, how property owners may contest the zoning officer's determinations, and how property owners may dispute the validity of this ordinance. Anybody who has a question concerning how this ordinance regulates a property should read *Article 1*.

However, many of the regulations in this ordinance should not be applied to all areas of the Borough due to the differing statuses and goals of these areas. So *Article 2, "Zoning District*

Article 1, General Provisions, 2

Provisions," divides the Borough into 7 "zoning districts" -- each of which is composed of areas with similar present-day statuses and goals, and faces a set of regulations that is different than the set faced by every other zoning district. *Article 2* then provides this set of regulations for each district, addressing such subjects as permitted land uses, off-street parking and loading facilities, setbacks, building heights, lot designs, and more. Although *Section 200, "The Purposes, Organization, and Applicability of Article 2"* explains how this article should be read in more detail, a general rule of thumb is that readers who have a question concerning how this ordinance regulates a property need to read only the parts of *Article 2* that concern the zoning district of that property.

Article 3, "Special Exceptions and Conditional Uses," explains what a special exception use is, reveals what a conditional use is, illustrates the procedures for obtaining permits for these uses, lists the standards that the Zoning Hearing Board is to utilize in determining whether or not to grant a special exception use, and lists the standards that the Borough Council is to employ in determining whether or not to grant a conditional use. *Article 4, "Temporary Uses,"* explains what a temporary use is, illustrates the procedures for obtaining permits for one, and lists the standards that the Borough Council is to utilize in determining whether or not to grant it. *Article 5, "Supplemental Regulations,"* contains regulations that apply to only some kinds of land uses and structures. *Article 6, "Signs,"* contains all of the ordinance's sign regulations. *Article 7* contains the ordinance's administrative provisions that are relevant to municipal officials on a daily basis¹, but not usually to property owners (administrative provisions that are more relevant to property owners are included in *Article 1*). *Article 8, "Terminology,"* provides a glossary of some of the terms used in this ordinance.

The sections in *Article 1* apply to every regulated land use, lot, and structure in the Borough. Because they address each one of Meyersdale's 7 zoning districts, the sections in *Article 2* also apply to every regulated land use, lot, and structure in the Borough. However, the sections of *Articles 3-7* apply only when a provision of either *Article 1* or *Article 2* explicitly says so. Municipal officials should be familiar with this entire ordinance, as well as the *1997 Meyersdale Borough Comprehensive Plan*. However, anyone who has a question concerning how this ordinance regulates a property only needs to read the following:

1. *Article 1*,
2. the parts of *Article 2* that concern the zoning district of the involved property, and
3. the parts of *Articles 3-7* that:
 - a. are explicitly referenced by either *Article 1* or the parts of *Article 2* that concern the property's zoning district, and
 - b. are relevant to the reader's specific concern.

This ordinance is organized in this manner so that property owners can determine how the use of their property is restricted without reading the entire document.

SECTION 112: THE GENERAL PURPOSES OF THIS ORDINANCE

¹Such provisions include explanations of the zoning-related functions of the Borough's Zoning Officer, Zoning Hearing Board, and Council.

The primary general purposes of this ordinance were developed in and are adopted from the 1997 *Meyersdale Borough Comprehensive Plan*. The secondary general purposes of this ordinance are adopted from the Meyersdale Planning Committee. Each of these is discussed below.

A. The 1997 Meyersdale Borough Comprehensive Plan:

OVERALL GOAL: TO MAKE MEYERSDALE AN ATTRACTIVE AND FUNCTIONAL COMMUNITY IN WHICH PEOPLE WILL WANT TO LIVE, SHOP, AND WORK.

Land Use

Goal: To provide for all appropriate land uses necessary to the community in an attractive and functional manner which minimizes the conflict between them.

Obj: To adopt and utilize this Comprehensive Plan as a guide to decision making.

Obj: To write and adopt a Zoning and Subdivision and Land Development Ordinance which recognizes the importance of carefully managing the type and quality of development allowed in the Borough.

Obj: Develop and implement a Main Street Program.

Housing

Goal: 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.

Obj: To support and participate in the Somerset County Housing Rehabilitation program served by the Somerset County Redevelopment Authority through Community Development Block Grants (CDBG).

Obj: To assure that new subdivisions and developments occur in a manner which is consistent with sound planning practice and that they minimize the cost to the Borough for services and infrastructure.

Obj: To assure that new construction and redevelopment meet the county Subdivision and Land Development Ordinance.

Obj: To encourage and support the development of a county-wide housing program.

Obj: To encourage the development of townhouse type housing or the reuse of existing structures for multi-family style middle to high end rental properties.

Obj: To assure the availability of housing for middle income families.

Obj: To promote the Borough of Meyersdale as an attractive, self-contained bedroom community by forming associations with non-profit agencies, Chamber of Commerce, using Internet resources and other local assets with an emphasis on promotion to former residents or natives.

Transportation

Goal: To maximize safety and convenience of travel in a manner which provides accessibility to all areas of the Borough.

Obj: Develop long-term solutions to efficient and equitable Borough road concerns by devising a prioritized schedule of maintenance and upgrades.

Obj: Explore potential for expanding alternative modes of transportation including bike paths and sidewalks in older parts of the Borough.

Obj: To strongly support the completion of Route 219.

Community Facilities and Public Utilities

Goal 1: To assure that appropriate facilities and infrastructure are constructed, improved and maintained which will meet the safety and service needs of the community in an affordable manner.

Obj: To improve the functioning of Borough services and funding streams by identifying funding sources for a Borough Manager.

Obj: To encourage the improved integration of the school districts facilities with the residents of the Borough.

Obj: To support the expanded use of existing facilities for educational opportunities for adults including the library and school facilities.

Obj: To assure that fire protection remains at its current high level through the encouragement of volunteering for the department.

Obj: To develop and maintain an effective level of police services by encouraging the improved enforcement of existing ordinances.

Obj: To assure that the sanitary sewer system meets the current and future needs of the community through continued applications and reception of funding for improvements.

Obj: To work to assure a high level of service from electric, cable, and associated utilities.

Goal 2: To promote and support local facilities which are important to the vitality and self-sufficiency of the Borough.

Obj: To support and encourage the use of the medical facilities in the Borough emphasizing the quality of services provided by Conemaugh and Meyersdale Medical Centers.

Obj: To promote and market the benefits of, and provide continued support of the Meyersdale Medical Center.

Obj: To promote the Meyersdale School District as an integral part of the communities future.

Goal 3: To provide the Borough residents with adequate recreational options, well maintained and safe for children.

Obj: To continue to maintain park and recreational facilities for the present and future residents of the Borough

Obj: To improve organized recreational options for youths by establishing appropriate resources such as staff and funding.

Public Health and Environment

Goal 1: To preserve environmentally sensitive lands, watersheds, and associated habitats.

Obj: Preserve and protect open space and passive recreation areas from the harmful effects of overuse and development.

Goal 2: To improve the physical and mental health of Borough residents.

Obj: To establish an information clearing house to educate the residents concerning social and human services available at existing facilities.

Obj: To advocate county outreach programs for mental health and other social services.

Economic Development

Goal: To beautify and market the Central Business District (CBD) through revitalization of the downtown and public promotion.

Obj: To create a downtown revitalization plan focusing on beautification of the CBD in cooperation with local business owners, chambers of commerce, etc.

Obj: To improve the beauty of the CBD by implementing a tree planting program.

Obj: To improve the enforcement of existing ordinances which serve to improve the conditions of persons using facilities located downtown.

Obj: To explore parking options in the CBD in an effort to not discourage any possible commercial activity by local residents and allow for adequate parking for the communities present and future needs.

Obj: To establish an improved route for refuse removal that includes pick-up of the downtown area first to remove clutter from streets prior to shopping hours.

Obj: To encourage cooperation and coordination of events with contiguous municipalities by forming a Joint Planning Commission.

Historic Preservation

Goal: To preserve and conserve the Heritage Resources throughout the Borough.

Obj: To finalize the boundaries of the proposed Historic District.

Article 1, General Provisions, 6

Obj: To prepare and formerly submit a nomination to both the Pennsylvania Historic and Museum Commission and the US Department of the Interior for the proposed Historic District.

Obj: To formulate and Historic District Ordinance for implementing the provisions of the Historic District.

Obj: To form a base for Historic Preservation.

Other Goals

Goal: To encourage all residents to maintain their properties in a way which makes the Borough an attractive place in which to live and visit.

Goal: To assure accessibility to public buildings; parks, and community services by all members of the community.

Goal: To encourage community participation in municipal activities and decisions making and improve the relations between contiguous municipalities.

B. The Meyersdale Planning Committee: The Meyersdale Planning Committee used the following purposes to develop this ordinance. These purposes serve as secondary general purposes of this ordinance.

- To protect and promote the health, safety, and welfare of both the residents of the Borough of Meyersdale and the general public
- To encourage the orderly growth and development of the Borough in accordance with the recommendations of the Borough's comprehensive plan
- To protect and maintain the character, stability, and value of the residential, commercial, and industrial areas of the Borough
- To provide adequate light, air, and privacy, and to prevent the overcrowding of people and structures
- To provide protection against fire, explosion, noxious fumes, and other hazards in the interest of the public health, safety, comfort, and general welfare
- To encourage the most appropriate use of the land and structures throughout the Borough through the establishment of land use districts and the regulation of land, activities, and structures within these districts
- To provide for the gradual elimination of those uses of land, buildings, and structures which do not conform to the requirements of the district in which they are located and which adversely affect the development of neighboring properties
- To implement the goals, objectives, and policies of the Meyersdale Borough comprehensive plan
- To minimize the conversion of single family detached housing into multi-family dwellings thus maintaining the land values and neighborhood characteristics of large portions of the Borough.

SECTION 115: AUTHORIZATION

The establishment of zoning districts within municipalities such as the Borough of Meyersdale, the assignment of regulations to these districts, and the assignment of administrative structures and procedures to these regulations for purposes like those given in *Section 112* of this ordinance have

been authorized by the *Pennsylvania Municipalities Planning Code, Act of 1968, P.L. 805, No. 247*, as reenacted and amended.

SECTION 118: THE EFFECTIVE DATE OF THIS ORDINANCE'S ENACTMENT

The effective date of this ordinance's enactment shall be the date that this ordinance was enacted by the Borough Council of the Borough of Meyersdale. This date is shown above the signatures on the signature page in the Appendix of this document.

SECTION 121: INTERPRETING THE LANGUAGE OF THIS ORDINANCE

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

- A. Words that are defined in *Article 8, "Terminology,"* shall be interpreted as they are defined there. Undefined terms must be given their usual and ordinary meaning within the Borough.
- B. Words used in the present tense shall imply the future tense as well.
- C. The word "person" refers to firms, associations, organizations, trusts, partnerships, companies, corporations, and individual persons.
- D. The word "shall" infers a mandatory sense.
- E. The word "may" infers a permissive sense.
- F. The word "lot" is a synonym of "plot," "piece," and "parcel."
- G. The words "used" and "occupied" as applied to any lot or building shall be construed to imply the words "intended, arranged, maintained, and/or designed to be used or occupied."
- H. The word "day" shall be interpreted as being a full calendar day.
- I. When the meaning of a regulation as it applies to a given property is not clear, it shall be interpreted in favor of that property and against any implied extension of the regulation.

SECTION 124: CONFLICT WITH OTHER REGULATIONS

Where a provision of this ordinance conflicts with a provision of another ordinance, state law, or federal law, the stricter of the two shall apply. Where the applicable provision of this ordinance is the less strict of the two, it shall not apply. However, the remainder of this ordinance shall remain in full force and effect.

SECTION 127: CONFLICT WITH FLOODPLAIN REGULATIONS

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

SECTION 130: SEVERABILITY

The provisions of this act shall be severable, and should any section or provision of this ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, the validity of any remaining sections or provisions shall not be declared invalid or unconstitutional.

SECTION 133: APPLICABILITY OF THIS ORDINANCE TO PRIVATE AGREEMENTS

This ordinance shall not annul any easements, covenants, or private agreements. However, the existence of any such easement, covenant, or private agreement shall not affect the enforceability of this ordinance.

SECTION 136: APPLICATION OF REGULATIONS DURING LOCAL EMERGENCIES

The Meyersdale Borough Council may temporarily waive some of the regulations of this ordinance during a local emergency.

SECTION 139: GENERAL RULES FOR LAND USES AND LOTS

All land uses shall be allowed on lots as a permitted principal use, permitted accessory use, special exception use, conditional use, and/or temporary use. The actual uses allowed on a lot are determined by the zoning district of that lot (see *Section 265; "Land Uses, Off-Street Parking, and Off-Street Loading."*) However, the following rules shall apply to the establishment of land uses on lots in all districts.

- A. No permitted accessory use shall be constructed more than 180 days before the use to which it is accessory.
- B. No structure shall be located closer than 5 feet from another structure unless that structure is a fence, is attached to the other structure, or forms an integral part of the other structure.

- C. All commercial tanks that contain or carry more than 20 gallons of fuel, lubricants, or any other poisonous liquid shall be located at least 10 feet from all property lines and public right-of-ways.

SECTION 142: PARKING FACILITIES AND TEMPORARY EVENTS

- A. **Parking Facilities and Zoning District Regulations:** All parking facilities are subject to the regulations of the zoning district in which they are located unless this ordinance specifically states otherwise. Furthermore, all parking garages are subject to the regulations on structures imposed by the zoning district in which they are located.
- B. **Emergency and Non-Profit Temporary Events:** Any parking or loading requirement of this ordinance may be waived by Borough Council for emergency or non-profit temporary events.

SECTION 145: CLASSIFICATION OF BUSINESSES THAT CONSIST OF SEVERAL USES

For the purposes of this ordinance, businesses that consist of several land uses shall be classified as the constituent land use that this ordinance regulates the most strictly. If a land use is not a permitted use in a district, then any business which is partly composed of that land use is not a permitted use in that district.

SECTION 148: ZONING PERMITS

- A. **When a Zoning Permit is Needed:** Before a property owner may have a non-sign structure erected, reconstructed, structurally altered, or moved on his or her lot; or have a nonconforming, non-sign structure reconstructed, structurally altered, or moved on his or her lot, he or she must first obtain a zoning permit (unless this ordinance specifically states otherwise). *Article 6, "Signs,"* explains when zoning permits are required for signs. No land improvements or other development activities shall be commenced before the involved property owner has a zoning permit for these activities.
- B. **The Procedure for Obtaining a Zoning Permit:** Anyone who wishes to obtain a zoning permit shall follow the procedure below.
1. **APPLICATIONS:** Applications for a zoning permit shall be submitted in writing on a form prescribed by the Zoning Officer along with payment of the required fees set by Borough Council. Applications shall be submitted with plans prepared in accordance with the Zoning Officer's requirements, and shall contain all of the information that is necessary to determine compliance with this and all other pertinent ordinances and laws. An application shall become a public record when it is officially filed.
 2. **THE ISSUANCE OR DENIAL OF A PERMIT:** An application shall not be officially filed until all required information has been submitted. Within 30 days of this official filing, the Zoning Officer shall either issue or deny the

zoning permit. The Zoning Officer shall not issue a permit unless it is determined that (1) the proposed development complies with the provisions of this and all other pertinent ordinances, and (2) all other required approvals and permits have been obtained from the applicable Borough, County, State, and Federal agencies. If these determinations are made, then the Zoning Officer shall issue a zoning permit. If the Zoning Officer does not act within the required time period, then the permit shall be deemed to be issued.

- C. Vested Rights:** Nothing in this ordinance shall require any change in the development or use of a lot or structure for which a zoning permit was lawfully issued prior to the effective date of this ordinance's enactment (or the effective date of an amendment to this ordinance), provided that development (other than excavations) has begun or contracts have been let pursuant to the permit. However, any zoning permit which was issued after the first public hearing on this ordinance (or an amendment to this ordinance) but prior to the effective date of this ordinance's enactment (or the amendment's enactment) shall be declared void if the involved development does not conform to the provisions of this ordinance, development (other than excavations) has not begun, and contracts have not been let pursuant to the permit.
- D. Development Changes:** If a zoning permit is issued, the involved development shall not deviate from the plans and other information submitted to the Zoning Officer without the written approval of the Zoning Officer – or the Borough Council in the case of a conditional or temporary use and the Zoning Hearing Board in the case of a special exception. Requests for all such approvals shall be submitted in writing to the Zoning Officer.
- E. The Duration of Zoning Permits:** A zoning permit shall expire within one calendar year of the date of issuance if the involved development activities have not been commenced. All development activities must be completed no later than 2 calendar years from the date of issuance.
- F. Inspections:** In order to determine if the information submitted on or with an application is true and is being adhered to, the Zoning Officer shall have the authority to enter any building, structure, premises, property, or development in the Borough at any reasonable hour upon presentation of proper credentials.
- G. Revocation of Permits:** If the Zoning Officer discovers that the development does not comply with the approved application or any applicable laws or ordinances, or if the Zoning Officer determines that an applicant has made any false statements or misrepresentations regarding the development, the Zoning Officer shall revoke the zoning permit and proceed with whatever legal action is necessary to correct the violation (see *Section 160, "Enforcement"*).
- H. Permits Issued in Error:** Any zoning permits issued in error shall be null and void.
- I. Appealing the Zoning Officer's Determination:** The applicant may appeal the denial of a zoning permit, and aggrieved persons or neighbors may appeal the issuance of a zoning permit, as specified in *Section 169, "Appealing the Determination of a Municipal Officer."*

SECTION 151: OCCUPANCY PERMITS

- A. When an Occupancy Permit is Needed:** Before any property owner may use or occupy his or her new and/or vacant lot; use or occupy his or her new, reconstructed, structurally altered, moved, and/or vacant non-sign structure; or change the use of his or her non-sign structure or lot, an occupancy permit must be obtained (unless this ordinance specifically states otherwise). *Article 6* explains when occupancy permits are needed for signs.
- B. The Procedure for Obtaining an Occupancy Permit:** After the completion of all development activities, but before the involved structure and/or lot is used or occupied, the applicant shall notify the Zoning Officer and pay the required fees set by Borough Council. The Zoning Officer shall examine the involved structure and/or lot within 10 days of this notification and payment. If the structure, lot, and the involved use comply with the provisions of this ordinance, other applicable ordinances and laws, and any plans approved for a zoning permit, then the Zoning Officer shall issue an occupancy permit. Otherwise, he or she shall not. If the Zoning Officer does not act within the required time period, then the permit shall be deemed to be issued.
- C. Temporary Occupancy Permits:** The Zoning Officer may issue a temporary occupancy permit which allows the use, partial use, or occupancy of the involved structure or lot during development activities. Such a permit shall be valid for no longer than 3 months unless extended by Borough Council as the Council sees fit.
- D. Inspections:** In order to make the determinations required by *letter "B"* of this section, the Zoning Officer shall have the authority to enter any building, structure, premises, property, or development in the Borough at any reasonable hour upon presentation of proper credentials.
- E. Revocation of Permits:** If the Zoning Officer discovers that the applicant has made any false statements or misrepresentations regarding the development, the Zoning Officer shall revoke the occupancy permit and proceed with whatever legal action is necessary to correct the violation (see *Section 160, "Enforcement"*).
- F. Permits Issued in Error:** Any occupancy permits issued in error shall be null and void.
- G. Appealing the Zoning Officer's Determination:** The applicant may appeal the denial of an occupancy permit, and aggrieved persons or neighbors may appeal the issuance of an occupancy permit, as specified in *Section 169, "Appealing the Determination of a Municipal Officer."*
- H. The Duration of Occupancy Permits:** Non-temporary occupancy permits shall be valid for the lifespan of the involved development, except if that development is either a temporary sign on private property (in which case the permit shall only be valid for 30 days) or a temporary sign on a public right-of-way (in which case the permit shall only be valid for 60 days).

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 fulfil 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, repaired, or reconstructed 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. it follows any applicable building codes
 - 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*
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. the regulations under *letter "C," number "1"* above are followed
 - b. a zoning permit has been acquired for its reconstruction within one year of the involved disaster
 - c. 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,"*² 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

²Note 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.

- 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. such an expansion is necessary to accommodate a normal increase in business³
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"*⁴ -- 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 regulations⁵ of the involved zoning district than the original use. In making a judgement 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 an 2 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

³See *Heyman v. Zoning Hearing Board of Abington Township* [601 A.2d 414 (Pa. Commonw. 1991)].

⁴Note 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.

⁵Setbacks, 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.

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 157: VARIANCES

A. The Purpose of Variances: The regulations of this ordinance apply to and are designed to address the conditions of either the entire Borough or an entire zoning district. Thus, they are not precisely geared to any one property. The regulations were designed in this manner to avoid unequal, unfair, or arbitrary treatment of different property owners. Because these generalized regulations were not designed with any one property in mind, however, it is possible -- in a few situations -- that they could prevent any use of a property. The function of a variance is to provide relief from such a situation. A variance gives a property owner or tenant permission to do something that violates a provision of this ordinance in order to keep him or her from suffering an "unnecessary hardship" due to that provision.

However, variances should not be given freely. If every property owner or tenant who suffered any kind of a hardship due to the regulations of this ordinance was granted a variance, then this ordinance would be completely unable to fulfil its purposes. Thus, *letter "D"* below specifies conditions that the Zoning Hearing Board is to use to distinguish genuine unnecessary hardships from common inconveniences.

B. Who May Apply for a Variance: Any landowner or tenant who has the permission of his or her landowner may apply for a variance.

C. The Procedure for Obtaining a Variance: A party listed in *letter "B"* above who wishes to obtain a variance must submit a written application to the Zoning Officer on a form supplied by the Borough. This application shall specifically cite the provisions of this ordinance from which the applicant is seeking relief. After determining that the application is complete, the Zoning Officer shall forward the application to the members of the Zoning Hearing Board. At the involved hearing, the Zoning Hearing Board shall follow the procedure specified in *Section 705, "The Zoning Hearing Board."* If the Zoning Hearing Board decides to grant a variance, it may attach any reasonable conditions that it feels are necessary to forward the purposes of this ordinance. Appeals to the Board's decision may be made to the court of common pleas in the judicial district where the involved property is located.

D. The Conditions that the Zoning Hearing Board is to Use: The Zoning Hearing Board may only grant a variance when it makes all of the following five findings:

1. that there are unique and peculiar physical conditions present on the involved property, such as the size, shape, or topography of the involved lot, that were not created by the provisions of this ordinance;
2. that, because of these conditions, there is no possibility that the involved property can be developed in strict conformity with the provisions of this ordinance --

that if these provisions were rigidly implemented, the property would be virtually unusable and without any economic value;

3. that this unnecessary hardship was not created by the applicant property owner/tenant or any of his or her predecessors;
4. that the variance requested, if granted, (1) will not alter the essential character of the involved neighborhood or zoning district, (2) will not substantially or permanently impair the appropriate use or development of any adjacent properties, and (3) will not be detrimental to the public welfare; and
5. that the variance, if granted, will be the smallest possible modification of the involved regulation that will provide relief from this regulation.

SECTION 160: ENFORCEMENT

A. The Purpose, Organization, and Applicability of this Section: The purpose of *Section 160* is to prescribe procedures that will effectively enforce the provisions of this ordinance while (1) protecting the legal rights of property owners, and (2) adhering to the rules for zoning ordinance enforcement that are established in the *Pennsylvania Municipalities Planning Code (Act of 1968, P.L. 805, No. 247, as reenacted and amended)*. These procedures apply to situations in which a person, partnership, or corporation erects, reconstructs, alters, maintains, establishes, or uses a structure, sign, building, lot, or land use in a manner that violates one or more of the provisions of this ordinance. In other words, these procedures apply to situations involving an illegal structure, sign, lot, or use. They do not apply to situations involving a structure, sign, lot, or use that is a nonconformity (as defined in *Section 154, "Nonconformities"*) or that has a variance (as defined in *Section 157, "Variances"*).

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

1. The Borough Council
2. An officer of the Borough (e.g., the Zoning Officer) with the approval of Borough Council
3. An aggrieved party who would be substantially affected by the alleged violation

The procedure that is to be used by the first two of these groups is discussed under *letter "B"* below. The procedure that is to be used by aggrieved parties is discussed under *letter "C"* below.

B. Borough Enforcement Procedure: If it appears to the Borough that a violation of this ordinance has occurred, then enforcement proceedings shall be instituted as described below.

1. Before any other enforcement actions begin, the Zoning Officer shall send an enforcement notice to the following parties:

- a. the owner of record of the parcel on which the violation has occurred,
 - b. any person who has filed a written request to receive enforcement notices regarding the involved parcel, and
 - c. any person that the owner requested, in writing, to receive a copy.
2. Each enforcement notice required by this section shall contain:
- a. the name of the involved landowner and any other persons against whom the Borough intends to take action,
 - b. the location of the property in violation,
 - c. a description of the specific violation involved,
 - d. citations and descriptions of the specific provisions of this ordinance which have been violated,
 - e. the date before which the steps for compliance must be commenced, as well as the date before which these steps must be completed, and
 - f. a statement noting that the recipient has the right to appeal the enforcement notice to the Zoning Hearing Board within 30 days, and that failure to comply with the notice within this time period – unless it is extended by appeals – constitutes a violation of this ordinance, with possible sanctions clearly described.
3. In a Zoning Hearing Board hearing where an enforcement notice is appealed, the Borough shall present its evidence against the appellant first.
4. Any filing fees paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to that party by the Borough if the Board or any court in a subsequent appeal rules in the appellant's favor.
5. After all necessary enforcement notices are sent as required above, the Borough Council and officers of the Borough acting with Council's approval may institute civil proceedings with the appropriate district justice to enforce the provisions of this ordinance – and to prevent, restrain, correct, or abate an illegal structure, sign, lot, or land use. Any person, partnership, or corporation who has violated or permitted the violation of this ordinance shall, upon being found liable in a civil enforcement proceeding, pay a judgement of not more than \$500 plus all court costs – including all reasonable attorney fees incurred by the Borough. No penalties shall be imposed on the liable party until the date of the determination of a violation by the involved district justice. If the liable party neither pays nor appeals the judgement in a timely manner, the Borough shall enforce the judgement pursuant to the applicable rules of civil procedure.

6. Each day that a violation continues shall constitute a separate violation, unless the district justice finds that there was a good faith basis for the liable party to have believed that there was no such violation. In this situation, there shall be only one violation until the fifth day following the date of the determination of a violation by the district justice -- after which each day that the violation continues shall constitute a separate violation.

7. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgement.

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

SECTION 163: PROCEDURAL CHALLENGES

A. The Purpose and Applicability of this Section: *The Pennsylvania Municipalities Planning Code (Act of 1968, P.L. 805, No. 247, as reenacted and amended)* specifies procedures that are to be used to adopt and amend this ordinance. These procedures are designed to offer ample opportunities for public participation and to make the ordinance as fair as possible. It is feasible, however, that this ordinance or any one of its amendments was not adopted according to these procedures, and thus, is procedurally flawed. The purpose of this section is to give landowners and other parties aggrieved by such a flaw -- as well as officers and agencies of the Borough itself -- a process through which they may challenge the procedural validity of the ordinance or amendment. This process may be used to guarantee adequate public participation and fairness in the adoption process, and to overturn any unfair ordinances or amendments.

B. Where Procedural Challenges may be Heard: The parties named in *letter "A"* above may file a procedural challenge with either the relevant court of common pleas or the Zoning Hearing Board. However, challenges made to the initial zoning ordinance before the Zoning Hearing Board is established may only be taken to court. Procedural challenges taken to the Zoning Hearing Board may have to follow the rules established by *Section 172 ("Time Limitations")*, and the Board shall hear all such challenges according to the procedure given in *Section 705, "The Zoning Hearing Board."*⁶

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

SECTION 166: SUBSTANTIVE CHALLENGES

⁶Note that the Zoning Hearing Board's decision may be appealed to the relevant court of common pleas.

A. The Purpose and Applicability of this Section: The Constitution of the United States, the Constitution of the Commonwealth of Pennsylvania, and various federal and state laws significantly limit what this ordinance may regulate -- so that the rights and property of Meyersdale's citizens and neighbors are protected. It is feasible, however, that one or more of this ordinance's provisions violate these laws -- and are thus, substantively flawed. The purpose of this section is to give landowners and other parties aggrieved by such a flaw -- as well as officers and agencies of the Borough itself -- a process through which they may challenge the substantive validity of the involved provision. This process may be used to insure that this ordinance respects the laws of the United States and the Commonwealth, as well as to overturn any illegal or unconstitutional provisions.

B. Landowner Curative Amendments and Substantive Validity Challenges: A party named under *letter "A"* above who wishes to challenge the substantive validity of this ordinance has the following two choices.

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

A person or party who wishes to challenge the substantive validity of this ordinance because he or she is aggrieved by a use or development permitted on another person's land must first select the second choice. However, all of the other named parties are free to choose from these options.

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

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

B. Landowner Curative Amendments: Applications for a landowner curative amendment shall be governed by the rules below.

1. All such applications shall be made to the Zoning Officer, who shall forward them to the Borough Council. These applications may be subject to the time limitations of *Section 172, "Time Limitations."*
2. All such applications shall be made in writing, and shall contain the following:
 - a. the reasons why the ordinance should be amended as proposed,

- b. plans and explanatory materials describing the use or development proposed by the landowner in lieu of the use or development allowed by this ordinance (these plans must be of sufficient quality and detail to allow an evaluation of this ordinance in light of the proposed use or development), and
 - c. the amendment or amendments that the landowner proposes to cure the alleged defects in this ordinance.
 3. The Borough Council shall hear and decide on applications for landowner curative amendments as required in *Section 710, "The Borough Council."*
 4. Appeals to the Borough Council's decision shall be taken to the court of common pleas in the judicial district where the involved property is located.

C. Substantive Validity Challenges Before the Zoning Hearing Board: Requests for a hearing before the Zoning Hearing Board on a substantive validity challenge to this ordinance shall be governed by the rules below.

1. All such requests shall be made to the Zoning Officer, who shall forward them to the Zoning Hearing Board. These applications may be subject to the time limitations of *Section 172, "Time Limitations."*
2. All such requests shall be made in writing, and shall contain the reasons for the involved challenge.
3. The Zoning Hearing Board shall decide (1) whether or not to hear such a request, and (2) whether or not to grant such a request according to the requirements of *Section 705, "The Zoning Hearing Board."*
4. Appeals to the Zoning Hearing Board's decision shall be taken to the court of common pleas in the judicial district where the involved property is located.

SECTION 169: APPEALING THE DETERMINATION OF A MUNICIPAL OFFICER

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

- A. the granting or denial of any permit, including a failure to act on the application
- B. the issuance of any enforcement notice via *Section 160, "Enforcement,"* or
- C. the registration or refusal to register any nonconforming use, structure, or lot.

Time limitations may be placed on such appeals by *Section 172, "Time Limitations."* The Zoning Hearing Board shall hear all such appeals according to the provisions of *Section 705, "The Zoning Hearing Board."*

Any landowner or party who is affected by a zoning-related determination of a municipal officer may also appeal this determination directly to the relevant court of common pleas.

SECTION 172: TIME LIMITATIONS

A. The Purpose, Organization, and Applicability of this Section: If the period of time in

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

The rules of this section, which are listed under *letter "B"* below, only apply to:

1. a landowner who wishes to appeal a decision by the Zoning Officer not to grant a zoning permit for his or her proposed construction, reconstruction, alteration, or other physical development (see *Section 148, "Zoning Permits"*),
2. an aggrieved party who wishes to appeal a decision by the Zoning Officer to grant a zoning permit to another party's proposed construction, reconstruction, alteration, or other physical development (see *Section 148, "Zoning Permits"*),
3. a landowner who wishes to appeal a decision by the Zoning Officer not to grant an occupancy permit for his or her proposed land use (see *Section 151, "Occupancy Permits"*),
4. an aggrieved party who wishes to appeal a decision by the Zoning Officer to grant an occupancy permit to another party's proposed land use (see *Section 151, "Occupancy Permits"*),
5. a landowner or an aggrieved party who wishes to appeal a decision by the Zoning Officer concerning the nonconforming status of a structure, land use, or lot (see *Section 154, "Nonconformities"*),
6. a landowner who wishes to contest the Zoning Officer's issuance of a enforcement notice for his or her property (see *Section 160, "Enforcement"*),
7. a landowner who wishes to reverse or limit a decision that (1) was made by the

Zoning Officer according to the provisions of this ordinance, and (2) opposes the landowner's proposed use or development⁷, by challenging the procedural or substantive validity of this ordinance before either the Zoning Hearing Board or (where applicable) Borough Council (see *Section 163, "Procedural Challenges,"* or *Section 166, "Substantive Challenges"*), and

8. an aggrieved party who wishes to reverse or limit a decision that (1) was made by the Zoning Officer according to the provisions of this ordinance, and (2) approves a proposed use or development on another party's land⁸, by challenging the procedural or substantive validity of this ordinance before either the Zoning Hearing Board or (where applicable) Borough Council (see *Section 163, "Procedural Challenges,"* or *Section 166, "Substantive Challenges"*).

B. Time Limitation Rules:

1. If the reason behind a hearing before either the Zoning Hearing Board or Borough Council is to reverse or limit the Zoning Officer's approval⁸ of a third party's proposed use or development in any manner⁹, then the request for that hearing must be filed no later than 30 days after the involved approval was given. If the person filing such a request has succeeded to his or her interest after the involved approval was given, then he or she shall be bound by the knowledge of his predecessor in interest.
2. All appeals from decisions¹⁰ that are adverse to the involved landowner shall be filed with the involved body within 30 days of the notice of this decision.

SECTION 175: PRELIMINARY OPINIONS

A. The Purpose of Preliminary Opinions: According to *Section 172, "Time Limitations,"* any aggrieved party who wishes to stop or limit a proposed construction, reconstruction, alteration, or other physical development by challenging either the procedural or substantive validity of this ordinance (see *Section 163, "Procedural Challenges,"* and *Section 166, "Substantive Challenges"*) may only do so within 30 days of the development's receiving a zoning permit (see *Section 148, "Zoning Permits"*). Likewise, any aggrieved party who wishes to stop or limit a proposed land use by challenging either the procedural or substantive validity of this ordinance may only do so within 30 days of the use's receiving an occupancy permit (see

⁷Such a decision might involve the refusal of a zoning permit, an occupancy permit, or a grant of nonconformity status.

⁸An "approval" might be the issuance of a zoning permit, the issuance of an occupancy permit, or the grant of nonconformity status.

⁹This includes procedural or substantive validity challenges. In these cases, the 30 day period shall begin (1) when the proposed construction, reconstruction, alteration, or other physical development receives its zoning permit, or (2) when the proposed use receives its occupancy permit.

¹⁰Such a "decision" might be the issuance of an enforcement notice or the denial of a zoning permit, occupancy permit, or nonconformity status.

Section 151, "Occupancy Permits"). "Preliminary opinions" are a tool that the landowner who is proposing the involved development or use may employ to shorten this 30 day period.

B. The Procedure for Obtaining a Preliminary Opinion: Preliminary opinions may be obtained by following this procedure.

1. The involved landowner shall submit plans and other materials describing his or her proposed use or development to the Zoning Officer for a preliminary opinion on their compliance with the ordinances and maps that are applicable at the time. These plans and materials must be of sufficient detail and quality to allow the Zoning Officer to make a determination as to whether or not the proposed use or development is in compliance.
2. If the Zoning Officer's preliminary opinion is that the proposed use or development complies with all applicable ordinances and maps, then notice of this shall be published once a week for two consecutive weeks in a newspaper of general circulation within Meyersdale. This notice shall include (1) a general description of the proposed use or development, (2) its location, and (3) the places and times where the plans and other materials may be examined by the general public.
3. The Zoning Officer's decision regarding a preliminary opinion may be appealed to the Zoning Hearing Board (see *Section 705, "The Zoning Hearing Board"*) or the relevant court of common pleas.

C. How an Approved Preliminary Opinion Affects the Time Limits of *Section 172*: If the

Zoning Officer approves the proposed use or development as specified under *letter "B"* above, then the 30 day period during which an aggrieved party may stop or limit the proposed use or development by challenging the procedural or substantive validity of this ordinance (see *Section 163, "Procedural Challenges,"* and *Section 166, "Substantive Challenges"*) begins on the date that the second notice is published -- instead of the date on which the proposed use or development receives the applicable permit.

SECTION 178: APPEALS TO COURT

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

SECTION 181: AMENDING THIS ORDINANCE

Article 1, General Provisions, 24

This ordinance may be amended through a landowner curative amendment, a municipal curative amendment, or a common amendment. The purposes behind and procedures for landowner curative amendments are given in *Section 166, "Substantive Challenges."* Municipal curative amendments are only used by Borough Council, are used to cure substantial validity problems within this ordinance, and are addressed in *Section 710, "The Borough Council."* Common amendments are also addressed in *Section 710, "The Borough Council."*

ARTICLE II ZONING DISTRICT PROVISIONS

SECTION 200: THE PURPOSES, ORGANIZATION, AND APPLICABILITY OF ARTICLE II

A. Purposes and Organization: The purposes served by this ordinance's regulations are given in *Article 1, Section 112, "The General Purposes of This Ordinance,"* and are taken from the "Community Development Goals and Objectives" section of the 1997 *Meyersdale Comprehensive Plan*. In order to (1) fulfill these purposes to the fullest extent possible, (2) recognize the differing present-day statuses and goals of Meyersdale's various neighborhoods, and (3) eliminate unnecessary constraints on the Borough's property owners, most of this ordinance's regulations should not be applied uniformly across the Borough. Instead, they should be applied only to the areas of the Borough where they are appropriate and will clearly fulfill the purposes of this ordinance. To this end, *Section 205* of this article divides the Borough into 8 "zoning districts," each of which (1) is composed of neighborhoods with similar present-day statuses and goals, and (2) faces a set of regulations that is different than the set faced by every other zoning district. *Section 210* establishes the "Official Zoning Map of the Borough of Meyersdale," which shows the physical location of these districts.

Each section of this article from *Section 215 to Section 245* addresses one of these 8 zoning districts: providing (1) the regulations that apply to that district, (2) a reference to *Section 265* (which lists the land uses allowed, off-street parking spaces required, and off-street loading berths required in each zoning district), and (3) a reference to *Section 270* (which lists the setbacks, height regulations, and lot requirements of each district). In dealing with some subjects, *Sections 265 and 270* also reference various parts of the rest of this ordinance.

B. Applicability: *Sections 205 and 210* of this ordinance establish Meyersdale's 8 zoning districts, and thus, apply to every property in the Borough. However, *Sections 215 through 245* each address only one zoning district. Thus, the only one of these sections that applies to a given property is the section that addresses that property's zoning district.

Because *Sections 265 and 270* are referred to by each section from *Section 215 to Section 245*, they apply to all zoning districts -- and thus to all properties -- within the Borough. However, *Section 265 and 270* are arranged in a table form, so that only one column within each table applies to any given zoning district and the properties therein.

Thus, the reader should read (1) *Section 205*, (2) *Section 210*, (3) the section between *Section 215* and *Section 245* that applies to the zoning district of the property in which he or she is interested, (4) *Section 265*, (5) *Section 270*, and (6) any parts of the rest of this ordinance that are referenced in *Article 2* and relevant to the reader's concerns.

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:

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
Light Industrial District	LI
Agricultural District	A
Recreation/Conservation District	RC

SECTION 210: ESTABLISHMENT OF THE OFFICIAL ZONING MAP

A. **The Official Zoning Map of the Borough of Meyersdale:** The locations and boundaries of the districts listed in Section 205 shall be displayed on the "Official Zoning Map of the Borough of Meyersdale." This map shall be certified as the true zoning district map adopted by the Borough of Meyersdale by (1) the signature of the Borough Mayor -- attested to by the Borough Secretary -- and (2) the Seal of the Borough underneath the words "This is to certify that this is the Official Zoning Map referred to in the Meyersdale Borough Zoning Ordinance." The Official Zoning Map shall be kept on display at the Borough Building, shall be maintained by the Borough's Zoning Officer, and shall serve as the ultimate authority on the location of zoning district boundaries -- overruling all copies made of it. The "Official Zoning Map of the Borough of Meyersdale" and all information shown thereon are hereby made a part of this article and this ordinance.

B. **The Zoning Map in the Appendix:** For informational purposes only, a copy of the Official Zoning Map has been attached to this ordinance as an Appendix. However, the Official Zoning Map shall prevail in any dispute between a copy or an alleged copy of the Official Map and the Official Map itself.

C. **Amending the Official Zoning Map:** Amendments to the Official Zoning Map of the Borough of Meyersdale may be pursued as either a simple Amendment to this ordinance, a landowner curative amendment, or a municipal curative amendment (see Article 7, Section 710, "The Borough Council" for the proper procedures for each of these). Any changes made to the Official Zoning Map by any other means whatsoever shall be considered a violation of this ordinance -- punishable as provided under Article 1, Section 160, "Enforcement."

If an amendment is made to the zoning districts, the Official Zoning Map shall be changed accordingly in a prompt manner. With these changes, an entry shall be made on the map which states "On (the appropriate date), by official action of the Borough Council, the following changes were made to the Official Zoning Map." Brief descriptions of these changes shall be made beneath this statement, and the entire entry shall be signed by the Mayor and attested to by the Borough Secretary.

D. Rules for Interpreting the Official Zoning Map: The zoning district boundaries established on the Official Zoning Map of the Borough of Meyersdale shall be interpreted according to the following rules.

1. Boundaries indicated as approximately following natural features or the center lines of streets, highways, or alleys shall be construed to follow such center lines.
2. Boundaries indicated as approximately following the boundary line of a recorded lot or separate parcel of land shall be construed as following said line of recorded lot or parcel of land.
3. Boundaries indicated as approximately following Borough boundaries shall be construed to follow said Borough boundaries.
4. Boundaries indicated by measured distances on the zoning map shall be determined by such dimensions. Distances not specifically indicated on the zoning map shall be determined by the scale of the map.

SECTION 215: THE R1, SINGLE HOUSEHOLD RESIDENTIAL DISTRICT

A. District Purposes: The "Future Land Use Plan" section of the *1997 Meyersdale Comprehensive Plan* develops its goals and objectives into a recommendation for a "Single Family Residential" zoning district. With only a few minor exceptions, this ordinance's "Single Household Residential," or "R1," District follows that recommendation. This district's regulations are designed to (1) protect the established single family homes in the district, (2) promote similar development in the vacant parts of the district, (3) require proper design standards, and (4) enhance the unique character of this district, its structures, and its quality of life.

B. The R1 District Regulations: Each land use, lot, and structure in this district shall follow the regulations below.

1. Within this district, a lot may be used or occupied for the permitted principal uses, permitted accessory uses, temporary uses, special exception uses, and conditional uses that are given for this district in *Article 2, Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."*
2. Each land use in this district shall provide off-street parking spaces as required by *Article 2, Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."*
3. Each land use in this district shall provide off-street loading berths as required

by Article 2, Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."

4. Unless this ordinance specifically states otherwise, all buildings and lots in this district shall meet the setback requirements, height limitations, and lot restrictions that are specified for this district in Article 2, Section 270, "Setbacks, Height Regulations, and Lot Requirements."
5. Within this district, no accessory structure shall contain a dwelling.
6. Supplies, parts, and/or equipment shall not be stored overnight outside of a building in this district.
7. Vehicles which meet one or more of the following descriptions shall not be parked, placed, stored, restored, or repaired on any public street or right-of-way in this district. Such vehicles may only be parked, placed, stored, restored, or repaired in a yard or driveway in this district for a period not exceeding five consecutive days.
 - a. A vehicle from which the wheels and/or engine have been removed
 - b. A vehicle that does not have a current motor vehicle license and inspection sticker.
8. The following vehicle types shall not be parked overnight on a public right-of-way in this district.
 - a. Any truck or van that either exceeds 11,000 pounds of gross weight or is designated as a Class 5 Vehicle or above by the Pennsylvania Motor Vehicle Code
 - b. Construction vehicles
 - c. Recreational vehicles
 - d. Trailers of any kind, including boat trailers or camper trailers
 - e. Agricultural equipment or farm implements
9. Within this district, all residences shall be placed on or secured by a permanent foundation that is adequate to prevent the home from overturning under all but the most severe circumstances. A permanent foundation, at minimum, shall be constructed with cinder building blocks or similar materials, at least one foot into the ground. In the case of mobile homes the minimum construction applies, however, ventilation openings will be allowed in the foundation to prevent decay of the structure. The ventilation openings will be no larger than three inches in diameter if uncovered to protect from all but the smallest materials entering the openings. The ventilation openings may be the reasonable size of a small window if the opening is permanently constructed with fence like covering. Where the residence is supported by a non-continuous foundation (e.g., posts, pillars), an enclosure of material

and design compatible to the residence shall be installed to conceal the open space above grade. Such enclosure shall provide sufficient ventilation to inhibit decay and deterioration of the residence's foundation, but shall not contain open areas large enough to permit the entry of a ball with a diameter of two inches.

10. Within this district, no permitted accessory use shall occupy more than 50% of the total area of the involved rear yard.

11. Within this district, a building that contains a dwelling shall be the only permitted principal use its lot.

SECTION 220: THE R2, TWO HOUSEHOLD RESIDENTIAL DISTRICT

A. District Purposes: The "Future Land Use Plan" section of the 1997 *Meyersdale Comprehensive Plan* develops its goals and objectives into a recommendation for a "Two Family Residential" zoning district. With only a few minor exceptions, this ordinance's "Two Household Residential," or "R2," District follows that recommendation. Two-household buildings are allowed in this district as permitted principal uses so that (1) a larger supply of affordable housing may be provided within Meyersdale, and (2) the district's large, older homes may be partitioned, remain economically viable, and be properly maintained by their owners. The remainder of this district's regulations are designed (1) to protect the established homes in the district, (2) to promote similar development in the vacant parts of the district, (3) to require proper design standards, and (4) to enhance the unique character of this district, its structures, and its quality of life.

B. The R2 District Regulations: Each land use, lot, and structure in this district shall follow the regulations below.

1. Within this district, a lot may be used or occupied for the permitted principal uses, permitted accessory uses, temporary uses, special exception uses, and conditional uses that are given for this district in *Article 2, Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."*

2. Each land use in this district shall provide off-street parking spaces as required by *Article 2, Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."*

3. Each land use in this district shall provide off-street loading berths as required by *Article 2, Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."*

4. Unless this ordinance specifically states otherwise, all buildings and lots in this district shall meet the setback requirements, height limitations, and lot restrictions that are specified for this district in *Article 2, Section 270, "Setbacks, Height Regulations, and Lot Requirements."*

5. Within this district, no accessory structure shall contain a dwelling.

6. Supplies, parts, and/or equipment shall not be stored overnight outside of a building in this district.
7. Vehicles which meet one or more of the following descriptions shall not be parked, placed, stored, restored, or repaired on any public street or right-of-way in this district. Such vehicles may only be parked, placed, stored, restored, or repaired in a yard or driveway in this district for a period not exceeding five consecutive days.
 - a. A vehicle from which the wheels and/or engine have been removed
 - b. A vehicle that does not have a current motor vehicle license and inspection sticker
8. The following vehicle types shall not be parked overnight on a public right-of-way in this district.
 - a. Any truck or van that either exceeds 11,000 pounds of gross weight or is designated as a Class 5 Vehicle or above by the Pennsylvania Motor Vehicle Code
 - b. Construction vehicles
 - c. Recreational vehicles
 - d. Trailers of any kind, including boat trailers or camper trailers
 - e. Agricultural equipment or farm implements
9. Within this district, all residences shall be placed on or secured by a permanent foundation that is adequate to prevent the home from overturning under all but the most severe circumstances. A permanent foundation, at minimum, shall be constructed with cinder building blocks or similar materials, at least one foot into the ground. In the case of mobile homes the minimum construction applies, however, ventilation openings will be allowed in the foundation to prevent decay of the structure. The ventilation openings will be no larger than three inches in diameter if uncovered to protect from all but the smallest materials entering the openings. The ventilation openings may be the reasonable size of a small window if the opening is permanently constructed with fence like covering. Where the residence is supported by a non-continuous foundation (e.g., posts, pillars), an enclosure of material and design compatible to the residence shall be installed to conceal the open space above grade. Such enclosure shall provide sufficient ventilation to inhibit decay and deterioration of the residence's foundation, but shall not contain open areas large enough to permit the entry of a ball with a diameter of two inches.
10. Within this district, a building that contains a dwelling shall be the only permitted principal use its lot.

SECTION 225: THE R3, MULTI-HOUSEHOLD/LIGHT COMMERCIAL DISTRICT

A. District Purposes: The "Future Land Use Plan" section of the 1997 *Meyersdale Comprehensive Plan* develops its goals and objectives into a recommendation for a "Residential Multi-Family" zoning district. This ordinance's "Multi-Household/Light Commercial," or "R3," District follows that recommendation -- with one major exception. The plan's recommendation calls for an exclusively residential district. While developing this ordinance, the Meyersdale Planning Committee determined that although the involved neighborhood is -- and should remain -- predominantly residential, small commercial establishments should nevertheless be allowed there as special exceptions -- subject to conditions that are to insure their compatibility with homes. This more accurately reflects the district's current status and its location adjacent to downtown. The district's regulations are designed (1) to insure that the district retains its predominantly residential composition and flavor, (2) to guarantee that the district's small commercial establishments are compatible with this residential flavor, (3) to foster a supply of affordable multi-family housing, (4) to insure that future development is built to standards that are appropriate for this district, and (5) to enhance the unique character of this district, its structures, and its quality of life.

B. The R3 District Regulations: Each land use, lot, and structure in this district shall follow the regulations below.

1. Within this district, a lot may be used or occupied for the permitted principal uses, permitted accessory uses, temporary uses, special exception uses, and conditional uses that are given for this district in *Article 2, Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."*
2. Each land use in this district shall provide off-street parking spaces as required by *Article 2, Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."*
3. Each land use in this district shall provide off-street loading berths as required by *Article 2, Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."*
4. Unless this ordinance specifically states otherwise, all buildings and lots in this district shall meet the setback requirements, height limitations, and lot restrictions that are specified for this district in *Article 2, Section 270, "Setbacks, Height Regulations, and Lot Requirements."*
5. Within this district, no accessory structure shall contain a dwelling.
6. Supplies, parts, and/or equipment shall not be stored overnight outside of a building in this district.
7. Vehicles which meet one or more of the following descriptions shall not be parked, placed, stored, restored, or repaired on any public street or right-of-way in this district. Such vehicles may only be parked, placed, stored, restored, or repaired in a yard or driveway in this district for a period not exceeding five consecutive days.

- a. A vehicle from which the wheels and/or engine have been removed
 - b. A vehicle that does not have a current motor vehicle license and inspection sticker
8. The following vehicle types shall not be parked overnight on a public right-of-way in this district.
- a. Any truck or van that either exceeds 11,000 pounds of gross weight or is designated as a Class 5 Vehicle or above by the Pennsylvania Motor Vehicle Code
 - b. Construction vehicles
 - c. Recreational vehicles
 - d. Trailers of any kind, including boat trailers or camper trailers
 - e. Agricultural equipment or farm implements
9. Within this district, all residences shall be placed on or secured by a permanent foundation that is adequate to prevent the home from overturning under all but the most severe circumstances. A permanent foundation, at minimum, shall be constructed with cinder building blocks or similar materials, at least one foot into the ground. In the case of mobile homes the minimum construction applies, however, ventilation openings will be allowed in the foundation to prevent decay of the structure. The ventilation openings will be no larger than three inches in diameter if uncovered to protect from all but the smallest materials entering the openings. The ventilation openings may be the reasonable size of a small window if the opening is permanently constructed with fence like covering. Where the residence is supported by a non-continuous foundation (e.g., posts, pillars), an enclosure of material and design compatible to the residence shall be installed to conceal the open space above grade. Such enclosure shall provide sufficient ventilation to inhibit decay and deterioration of the residence's foundation, but shall not contain open areas large enough to permit the entry of a ball with a diameter of two inches.
10. Within this district, a building that contains a dwelling shall be the only permitted principal use its lot.
11. All commercial land uses within this district which abut a residential property shall buffer themselves against that property according to the provisions of *Article 5, Section 520, "Required Buffers."*

SECTION 230: THE C, COMMERCIAL DISTRICT

- A. **District Purposes:** The "Future Land Use Plan" section of the 1997 *Meyersdale Comprehensive Plan* recommends a dense commercial district on the northern outskirts of the village commercial district and along both sides of Beachley Street for three blocks from the Borough boundary to Eight Avenue. This ordinance's "Commercial District" ("C") follows that recommendation. Both "Rails-to-Trails" lines

and railroad tracks are allowed in this district to permit the free use of the Borough's railroad assets. The "C" District's regulations are designed (1) to promote the establishment of businesses in the district, (2) to make sure that these businesses are compatible with their residential neighbors, (3) to allow single-family, two family households and multi-family households in this district, (4) to insure that future development is built to standards that are appropriate for this district, and (5) to enhance the unique character of this district, its structures, and its quality of life.

B. The "C" District Regulations: Each land use, lot, and structure in this district shall follow the regulations below.

1. Within this district, a lot may be used or occupied for the permitted principal uses, permitted accessory uses, temporary uses, special exception uses, and conditional uses that are given for this district in *Article 2, Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."*
2. Each land use in this district shall provide off-street parking spaces as required by *Article 2, Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."*
3. Each land use in this district shall provide off-street loading berths as required by *Article 2, Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."*
4. Unless this ordinance specifically states otherwise, all buildings and lots in this district shall meet the setback requirements, height limitations, and lot restrictions that are specified for this district in *Article 2, Section 270, "Setbacks, Height Regulations, and Lot Requirements."*
5. Within this district, no accessory structure shall contain a dwelling.
6. Supplies, parts, and/or equipment shall not be stored overnight outside of a building in this district.
7. Vehicles which meet one or more of the following descriptions shall not be parked, placed, stored, restored, or repaired on any public street or right-of-way in this district. Such vehicles may only be parked, placed, stored, restored, or repaired in a yard or driveway in this district for a period not exceeding five consecutive days.
 - a. A vehicle from which the wheels and/or engine have been removed
 - b. A vehicle that does not have a current motor vehicle license and inspection sticker
8. The following vehicle types shall not be parked overnight on a public right-of-way in this district.
 - a. Any truck or van that either exceeds 11,000 pounds of gross weight or is designated as a Class 5 Vehicle or above by the Pennsylvania Motor Vehicle Code

- b. Construction vehicles
 - c. Recreational vehicles
 - d. Trailers of any kind, including boat trailers or camper trailers
 - e. Agricultural equipment or farm implements
9. Within this district, all residences shall be placed on or secured by a permanent foundation that is adequate to prevent the home from overturning under all but the most severe circumstances. A permanent foundation, at minimum, shall be constructed with cinder building blocks or similar materials, at least one foot into the ground. In the case of mobile homes the minimum construction applies, however, ventilation openings will be allowed in the foundation to prevent decay of the structure. The ventilation openings will be no larger than three inches in diameter if uncovered to protect from all but the smallest materials entering the openings. The ventilation openings may be the reasonable size of a small window if the opening is permanently constructed with fence like covering. Where the residence is supported by a non-continuous foundation (e.g., posts, pillars), an enclosure of material and design compatible to the residence shall be installed to conceal the open space above grade. Such enclosure shall provide sufficient ventilation to inhibit decay and deterioration of the residence's foundation, but shall not contain open areas large enough to permit the entry of a ball with a diameter of two inches.
10. All commercial land uses within this district which abut a residential property shall buffer themselves against that property according to the provisions of *Article 5, Section 520, "Required Buffers."*

SECTION 235: THE LI, LIGHT INDUSTRIAL DISTRICT

A. District Purposes: The "Future Land Use Plan" section of the *1997 Meyersdale Comprehensive Plan* develops its goals and objectives into a proposal for one industrial zoning district: a "Light Industrial" district. This ordinance's "Light Industrial," or "LI," District largely follows the plan's recommendations for its "Light Industrial" district. This district permits "Rails-to-Trails" lines and railroad tracks, enabling the free use of the Borough's railroad assets. Due to its location adjacent to residential areas, the LI District is to be composed of lighter commercial and industrial uses than would be allowed in a Heavy Industrial District. The regulations of the LI District are designed (1) to promote a mix of economically viable commercial and light industrial uses that are compatible with each other and the uses of adjacent zoning districts; (2) to keep the involved uses from becoming a burden on the environment, appearance, or socioeconomic character of this district and its neighbors; (3) to foster an automobile-friendly environment; and (4) to enhance the character of this district, its structures, and its quality of life.

B. The LI District Regulations: Each land use, lot, and structure in this district shall follow

the regulations below.

1. Within this district, a lot may be used or occupied for the permitted principal uses, permitted accessory uses, temporary uses, special exception uses, and conditional uses that are given for this district in *Article 2, Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."*
2. Each land use in this district shall provide off-street parking spaces as required by *Article 2, Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."*
3. Each land use in this district shall provide off-street loading berths as required by *Article 2, Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."*
4. Unless this ordinance specifically states otherwise, all buildings and lots in this district shall meet the setback requirements, height limitations, and lot restrictions that are specified for this district in *Article 2, Section 270, "Setbacks, Height Regulations, and Lot Requirements."*
5. All portions of a lot in this district which are not used for buildings shall be attractively landscaped and maintained in good condition.
6. All commercial or industrial land uses within this district which abut a residential zoning district shall buffer themselves against that district according to the provisions of *Article 5, Section 520, "Required Buffers."*

SECTION 240: THE "A," AGRICULTURAL DISTRICT

A. District Purposes: The Agricultural Zoning District was drawn around Meyersdale's prime agricultural lands. Its regulations are designed to (1) provide a safe haven for the Borough's agricultural community, (2) allow single-household homes to be established on large lots, and (3) prescribe proper development guidelines for the district's future.

B. The A District Regulations: Each land use, lot, and structure in this district shall follow the regulations below.

1. Within this district, a lot may be used or occupied for the permitted principal uses, permitted accessory uses, temporary uses, special exception uses, and conditional uses that are given for this district in *Article 2, Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."*
2. Each land use in this district shall provide off-street parking spaces as required by *Article 2, Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."*
3. Each land use in this district shall provide off-street loading berths as required

by Article 2, Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."

4. Unless this ordinance specifically states otherwise, all buildings and lots in this district shall meet the setback requirements, height limitations, and lot restrictions that are specified for this district in Article 2, Section 270, "Setback Requirements, Height Limitations, and Lot Restrictions."

SECTION 245: THE RC, RECREATION/CONSERVATION DISTRICT

A. District Purposes: The "Future Land Use Plan" section of the 1997 *Meyersdale Comprehensive Plan* develops its goals and objectives into a concrete recommendation for a "Recreational/Conservation" zoning district. With only a few minor exceptions, this ordinance's "Recreation/Conservation," or "RC" district follows that recommendation. This district's regulations are designed (1) to allow the appropriate development of floodplains or lands with a slope of 25% or more, (2) to "protect the community as a whole against the excessive damage that occurs from erosion and other environmental problems that result from random development" on these sensitive lands, (3) to protect lands that are especially valuable to the community's recreation or conservation needs, and (4) to enhance the unique character of this district, its structures, and its quality of life.

B. The RC District Regulations: Each land use, lot, and structure in this district shall follow the regulations below.

1. Within this district, a lot may be used or occupied for the permitted principal uses, permitted accessory uses, temporary uses, special exception uses, and conditional uses that are given for this district in Article 2, Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."
2. Each land use in this district shall provide off-street parking spaces as required by Article 2, Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."
3. Each land use in this district shall provide off-street loading berths as required by Article 2, Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."
4. Unless this ordinance specifically states otherwise, all buildings and lots in this district shall meet the setback requirements, height limitations, and lot restrictions that are specified for this district in Article 2, Section 270, "Setbacks, Height Regulations, and Lot Requirements."
5. Vehicles which meet one or more of the following descriptions shall not be parked, placed, stored, restored, or repaired on any public street or right-of-way in this district. Such vehicles may only be parked, placed, stored, restored, or repaired in a yard or driveway in this district for a period not exceeding five consecutive days.

- a. A vehicle from which the wheels and/or engine have been removed
 - b. A vehicle that does not have a current motor vehicle license and inspection sticker
6. The following vehicle types shall not be parked overnight on a public right-of-way in this district.
- a. Any truck or van that either exceeds 11,000 pounds of gross weight or is designated as a Class 5 Vehicle or above by the Pennsylvania Motor Vehicle Code
 - b. Construction vehicles
 - c. Recreational vehicles
 - d. Trailers of any kind, including boat trailers or camper trailers
 - e. Agricultural equipment or farm implements
7. Within this district, all residences shall be secured or tied down to a foundation that is adequate to prevent the home from overturning under all but the most severe circumstances. Where the residence is supported by a non-continuous foundation (e.g., posts, wheels, pillars), an enclosure of material and design compatible to the residence shall be installed to conceal the open space above grade. Such enclosure shall provide sufficient ventilation to inhibit decay and deterioration of the residence's foundation, but shall not contain open areas large enough to permit the entry of a ball with a diameter of two inches.
8. Within this district, no permitted accessory use shall occupy more than 50% of the total area of the involved rear yard.
9. Within this district, a building that contains three dwellings or less shall be the only principal permitted use on the involved lot.

SECTION 265: LAND USES, OFF-STREET PARKING, AND OFF-STREET LOADING

A. The Purposes, Organization, and Applicability of this Section: The main function of this section is to show five different sets of information: (1) which land uses are allowed in each of Meyersdale's zoning districts, (2) how each use is allowed in each district, (3) which sections of the remainder of this ordinance (i.e., *Articles 3 through 8*) apply to each use, (4) how many off-street parking spaces each use must provide, and (5) how many off-street loading berths each use must provide. The organization and applicability of this section's parts that deal with the first three of these sets are discussed under number "1" below. The organization and applicability of this section's parts that deal with the last two of these sets are discussed under number "2" below. These five sets of information are all shown in

this section because they are all organized by land uses and can therefore be displayed on a single multi-page table -- saving space and making the ordinance easier to read. This multi-page table is located under *Subsection "D"* of this section.

1. THE ORGANIZATION AND APPLICABILITY OF THE LAND USE

REGULATIONS: The main body of regulations in this section is contained in the multi-page table of *Subsection "D."* The first eleven columns of this table contain the land use regulations of this ordinance. *Subsection "B"* below explains how to read the information presented in these columns.

Because these land use regulations apply to every zoning district within the Borough, they apply to every land use within the Borough as well.

2. THE ORGANIZATION AND APPLICABILITY OF THE OFF-STREET

PARKING AND LOADING REGULATIONS: As was noted above, the main body of regulations in this section is contained in the multi-page table of *Subsection "D."* The twelfth column of this table (the second from the right) contains this ordinance's minimum off-street parking space requirements for each land use. The thirteenth column (the farthest right) contains this ordinance's minimum off-street loading berth requirements for each land use. *Subsection "C"* below explains how to read the information presented in each of these columns, and provides some important interpretative rules.

These regulations apply to every land use allowed in the Borough. However, the required number of parking spaces and loading berths for many land uses (e.g., signs) is zero.

B. Land Uses -- How to Read the First Eleven Columns of the Table in *Letter "D":* The first eleven columns of the table in *letter "D"* of this section show (1) which land uses are allowed in each of Meyersdale's 8 zoning districts, (2) how each use is allowed in each district, and (3) which sections of the remainder of this ordinance (i.e., *Articles 3 through 8*) apply to each use. The information in these columns shall be interpreted as shown in this subsection.

1. The first (i.e., farthest left) column of the table in *letter "D"* lists the land uses allowed in the Borough of Meyersdale. Each row of the table addresses the land use given in its cell under the first column.
2. Each of the second through eleventh columns of the table in *letter "D"* addresses one of the Borough's 8 zoning districts, whose abbreviated name is given in its heading. The characters found in these 9 columns shall be interpreted as shown in the table below.

Character	The Character's Meaning
"p"	This means that the land use shown at the far left of the involved row is a permitted principal use in the involved column's zoning district. As such, the use may be set up on a lot in the involved district so that it is neither subordinate nor incidental to another use on the same lot. Unless the table specifically states otherwise, the establishment and existence of a permitted principal use are subject only to the zoning officer's grant of a zoning permit and an occupancy permit, both of which are to be given on the basis of whether or not the use, its buildings, and its lot comply with the applicable regulations of this ordinance (see <i>Section 148, "Zoning Permits,"</i> and <i>Section 151, "Occupancy Permits"</i>).
"a"	This means that the land use shown at the far left of the involved row is a permitted accessory use in the involved column's zoning district. As such, the use may be set up on a lot in the involved district so that it is subordinate and incidental to another use on the same lot. Unless the table specifically states otherwise, the establishment and existence of a permitted accessory use are subject only to the zoning officer's grant of a zoning permit and an occupancy permit, both of which are to be given on the basis of whether or not the use, its buildings, and its lot comply with the applicable regulations of this ordinance (see <i>Section 148, "Zoning Permits,"</i> and <i>Section 151, "Occupancy Permits"</i>).
"t"	This means that the land use shown at the far left of the involved row is a temporary use in the involved column's zoning district. As such, the use may be temporarily set up on a lot in the involved district subject to the requirements and regulations of <i>Article 4, "Temporary Uses."</i>
"s"	This means that the land use shown at the far left of the involved row is a special exception use (i.e., a "special exception") in the involved column's zoning district. As such, the use may be set up on a lot in the involved district subject to the approval of the Zoning Hearing Board under the procedures and conditions given in <i>Article 3, "Special Exceptions and Conditional Uses."</i>
"c"	This means that the land use shown at the far left of the involved row is a conditional use in the involved column's zoning district. As such, the use may be set up on a lot in the involved district subject to the approval of the Borough Council under the procedures and conditions given in <i>Article 3, "Special Exceptions and Conditional Uses."</i>
"ARTICLE 'x'" or "§ 'x'"	A reference to a specific article or section of this ordinance that appears below (but in the same cell as) one of the above five characters means that – in the involved column's zoning district – the establishment and existence of the land use shown at the far left of the involved row is subject to the additional restrictions, conditions, regulations, and/or procedures given in the cited article or section.

3. For land uses not listed in the table under *letter "D,"* the Zoning Hearing Board shall determine (1) which zoning districts they shall be allowed in, (2) how they shall be allowed in those districts (i.e., as permitted principal uses, permitted accessory uses, conditional uses, etc...), and (3) which sections of the remainder of the ordinance apply to them. The Board may ask the Planning Committee for a recommendation on these matters:

C. Off-Street Parking Spaces and Loading Berths – How to Read the Last Two Columns of the Table in *Letter "D."*

The twelfth (second from the right) column of the table in *letter "D"* specifies a minimum number of off-street parking spaces that are to be provided by each land use in the Borough (this number may be zero). The last (farthest right) column of the table specifies a minimum number of off-street loading berths that are to be provided by each land use in the Borough (this number may also be zero). Because the number of off-street parking spaces and/or loading berths needed by a land use varies with (1) the type of land use involved, and (2) the size of this land use, the table gives these requirements as use-specific formulas that employ size as a variable to tailor the requirements to the particular home, business, or institution at hand. Unless the table notes otherwise, each requirement applies only to the land use given in the first cell of its row. The

information in both of these columns shall be interpreted as shown in this subsection.

1. RULES FOR DETERMINING THE REQUIRED NUMBER OF OFF-STREET PARKING SPACES FROM THE 9TH COLUMN OF THE TABLE:

- a. The table's off-street parking requirements address only the quantity of the spaces that are to be provided. The location, size, design, and maintenance of these spaces is controlled by *Section 530, "Off-Street Parking Space and Loading Berth Design."* Each parking space in the Borough shall follow the requirements of *Section 530*.
- b. Unless the table explicitly states otherwise, a lot or a business that contains more than one use shall provide 100% of the required off-street parking spaces for each of these uses. The off-street parking requirement for convenience stores is an example of an instance in which the table does specifically state otherwise ("1 space per each 200 sq. ft. of enclosed gross floor area + 80% of the additional parking spaces required by this table for other land uses on the same premises [e.g., gasoline station]").
- c. When calculations for a use's required number of parking spaces result in a fraction of a space, this fraction shall be rounded up to the next whole number.
- d. Where the required number of parking spaces for a use is wholly or partially determined by the number of employees that use has or will have, this shall be interpreted as the number of employees that use has or will have on its largest shift.
- e. On a residential lot containing two dwellings or less, a driveway may count as the number of 8 feet wide by 18 feet long parking spaces that would fit on it.
- f. Each land use shall provide at least all of the required off-street parking spaces on its own lot unless that use (1) shares parking spaces with other uses who need parking at differing times, (2) employs parking spaces on other lots that are nearby, (3) draws a significant number of clients who walk or ride bicycles, and/or (4) cannot meet these requirements due to existing site constraints. If a use fits one or more of these descriptions, it may be excused from the minimum off-street parking requirements of this section via the procedures and conditions specified by *Section 535, "Off-Street Parking and Loading Plans."*
- g. When an existing land use or structure is expanded, additional parking spaces shall be provided as required by the table. However, no expansion, alteration, subdivision, or combination of any lot, structure, or land use shall reduce or eliminate any pre-existing off-street parking requirements from this ordinance.

- h. The off-street parking space requirements of (1) land uses that are not listed in the table, or (2) lots or buildings whose use is not yet known to the level of detail required by the table shall be determined by Borough Council -- who may ask for a recommendation on the matter from the Planning Committee.

2. RULES FOR DETERMINING THE REQUIRED NUMBER OF OFF-STREET LOADING BERTHS FROM THE LAST COLUMN OF THE TABLE:

- a. Uses which have a gross floor area of less than 2,500 square feet are exempt from all off-street loading berth requirements of this ordinance.
- b. The table's off-street loading requirements address only the quantity of the berths that are to be provided. The location, size, design, and maintenance of these berths is controlled by *Section 530, "Off-Street Parking Space and Loading Berth Design."* Each loading berth in the Borough shall follow the requirements of *Section 530.*
- c. Unless the table explicitly states otherwise, a lot or structure that contains more than one use shall provide 100% of the required loading berths for each of these uses.
- d. When calculations for a use's required number of loading berths result in a fraction of a berth, this fraction shall be rounded up to the next whole number.
- e. Each land use shall provide at least all of the required off-street loading berths on its own lot unless that use cannot meet this requirement due to existing site constraints. In such a situation, the use may be excused from the minimum off-street loading requirements of this section via the procedures and conditions specified by *Section 535, "Off-Street Parking and Loading Plans."*
- f. When an existing land use or structure is expanded, additional loading berths shall be provided as required by the table. However, no expansion, alteration, subdivision, or combination of any lot, structure, or land use shall reduce or eliminate any pre-existing off-street loading requirements from this ordinance.
- g. The loading berth requirements of (1) land uses that are not listed in the table below, and (2) lots or buildings whose use is not yet known to the level of detail required by the table below shall be determined by Borough Council, who may ask for a recommendation on the matter from the Planning Committee.

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.

Article 2, Zoning District Provisions, 42

Land Use	R-1	R-2	R-3	C-1	E-1	A-1	R-10	Required Off-Street Parking Spaces	Required Off-Street Loading Berths
agricultural service business				p	p	p		1 space per each 400 sq. ft. of enclosed gross floor area	1 berth per each 10,000 sq. ft. of enclosed floor area up to 30,000 sq. ft. + 1 berth per each 25,000 sq. ft. of enclosed floor area over 30,000 sq. ft.
antique shop			pa	pa	pa			1 space per each 500 sq. ft. of enclosed gross floor area	none
arcade, pool hall, dance hall				pa	pa			1 space per each 300 sq. ft. of enclosed gross floor area	none
art gallery or art museum			pa	pa	pa			1 space per 1000 sq. ft. of enclosed gross floor area	none
auditorium or non-commercial movie theater				pa	pa			1 space per each 6 fixed seats or 9 linear feet of fixed benches; if there is no fixed seating, 1 space for each 75 sq. ft. of enclosed gross floor area	none
automobile parts store				pa	pa			1 space per each 300 sq. ft. of enclosed gross floor area	1 berth per each 10,000 sq. ft. of enclosed floor area up to 30,000 sq. ft. + 1 berth per each 25,000 sq. ft. of enclosed floor area over 30,000 sq. ft.
automobile repair shop				pa	pa			1 space per each service bay, a service bay shall not count as a parking space	1 berth per each 10,000 sq. ft. of enclosed floor area up to 30,000 sq. ft. + 1 berth per each 25,000 sq. ft. of enclosed floor area over 30,000 sq. ft.
automobile sales				p	p			1 space per each 600 sq. ft. of enclosed gross floor area + 1 space for each 2000 sq. ft. of outside display area + 100% of the additional parking spaces required by this table for other land uses on the same lot (e.g., an automobile repair shop); at least 170 sq. ft. of lot area shall be provided for each vehicle stored on the premises	1 berth per each 10,000 sq. ft. of enclosed floor area up to 30,000 sq. ft. + 1 berth per each 25,000 sq. ft. of enclosed floor area over 30,000 sq. ft.
bait shop			ARTICLE 3	pa	pa			1 space per each 300 sq. ft. of enclosed gross floor area	none

Land Use	R 1	R 2	R 3	C	L	A	R D	Required Off-Street Parking Spaces	Required Off-Street Loading Berths
bakery			S A R T I C L E 3	p a	p a			1 space per each 500 sq. ft. of enclosed gross floor area for the first 25,000 sq. ft. of gross floor area + 1 space per each 650 sq. ft. of enclosed gross floor area for the next 25,000 sq. ft. + 1 space per each 800 sq. ft. of enclosed gross floor area over 50,000 sq. ft.	1 berth per each 10,000 sq. ft. of enclosed floor area up to 30,000 sq. ft. + 1 berth per each 25,000 sq. ft. of enclosed floor area over 30,000 sq. ft.
bank or financial institution				p a	p a			1 space per each 300 sq. ft. of enclosed gross floor area + 3 reservoir waiting spaces of not less than 20 ft. in length shall be provided at each drive-in window	none
bar, tavern, night club			S A R T I C L E 3	p a	p a			1 space per each 100 sq. ft. of enclosed gross floor area	1 berth for each 10,000 sq. ft. of enclosed gross floor area
basketball court, tennis court	p a	p a	p a	p a	p a	p a	p a	2 spaces per each court or 1 space per each three spectator seats, whichever is greater	none
beauty parlor, barber shop		S A R T I C L E 3	S A R T I C L E 3	p a	p a			1 space per each cutting station or barber's chair	none
bed and breakfast establishment	p	p	p	p				1 space per guest bedroom + 2 spaces for permanent residents	none
beverage distributor				p	p			1 space per each 350 sq. ft. of enclosed gross floor area	1 berth per each 10,000 sq. ft. of enclosed floor area up to 30,000 sq. ft. + 1 berth per each 25,000 sq. ft. of enclosed floor area over 30,000 sq. ft.
bicycle repair shop				p	p			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

Article 2, Zoning District Provisions, 44

Land Use	R-1	R-2	R-3	C-1	L-1	A-1	R-C	Required Off-Street Parking Spaces	Required Off-Street Loading Berths
bookstore			S A R T I C L E 3	p	p			1 space per each 250 sq. ft. of enclosed gross floor area	1 berth for each 10,000 sq. ft. of enclosed gross floor area
bowling alley				p	p			3 spaces per each alley + 50% of the additional parking spaces required by this table for other land uses on the premises (e.g., restaurant, bar)	Loading berths are not required for this use. However, they may be required for restaurants within the same building.
building, plumbing, welding, and/or heating supplies store				p	p			1 space per each 500 sq. ft. of enclosed gross floor area used for display + 1 space per each 1000 sq. ft. of enclosed gross floor area of warehouse area + 1 space for each company vehicle	1 berth per each 10,000 sq. ft. of enclosed floor area up to 30,000 sq. ft. + 1 berth per each 25,000 sq. ft. of enclosed floor area over 30,000 sq. ft.
camp-ground							p	1 space per campsite	none
car wash				p a	p a			1 space per each employee + storage areas for at least 5 times the number of cars that can be in the wash process at any one time	none
cellular site (i.e., cell site, radio link) or switching office					p			1 space per employee	none
cemetery	p a	p a	p a	p a	p a	p a	p a	1 space per employee	none
clubs, lodges			S A R T I C L E 3	p	p			1 space per each 300 sq. ft. of enclosed gross floor area	none
community center (non-profit)			p a	p a	p a		p a	1 space per each 250 sq. ft. of enclosed gross floor area	none

Article 2, Zoning District Provisions, 45

Land Use	R-1	R-2	R-3	C	A-1	A-2	R-C	Required On Street Parking Spaces	Required On Street Loading Berths
contractor's yard					p			1 space per each 2000 sq. ft. of enclosed gross floor area or 1 space per employee, whichever is more	none
convalescent center, nursing home			p	p				1 space per each 600 sq. ft. of enclosed gross floor area	1 berth for each 10,000 sq. ft. of enclosed gross floor area
convenience store				p	p			1 space per each 200 sq. ft. of enclosed gross floor area + 80% of the additional parking spaces required by this table for other land uses on the same premises (e.g., gasoline station)	1 berth for each 5000 sq. ft. of enclosed gross floor area up to 10,000 sq. ft. + 1 berth per each 20,000 sq. ft. of enclosed gross floor area over 10,000 sq. ft.
convent, monastery, or religious residence	p	a	p	a	p	a	p	1 space per each 1000 sq. ft. of enclosed gross floor area	none
correctional facility					p			1 space per employee + 1 space per every 25 inmates of maximum capacity	1 berth for each 10,000 sq. ft. of enclosed gross floor area
crematorium					p	a		1 space per every 4 seats of chapel capacity + 1 space per each 3 employees	none
data processing facility					p	a		1 space per 300 sq. ft. of enclosed gross floor area	none
day care center				p	a	p	a	2 spaces for each three teachers, employees, or administrators	none
dry cleaning establishment				s	p	p		1 space per each 400 sq. ft. of enclosed gross floor area	none
emergency medical or ambulance service					p	a		1 space per employee + 1 space for each motor vehicle operated in connection with the service	none
employment agency					p	p		1 space per 200 sq. ft. of enclosed gross floor area	none
exterminator					p	p		1 space per 800 sq. ft. of enclosed gross floor area	none

Article 2, Zoning District Provisions, 46

Land Use	R-1	R-2	R-3	C-1	C-2	A-1	R-1C	Required Off-Street Parking Spaces	Required Off-Street Loading Berths
farm						p		1 space per employee	none
fences, walls, or other screens	a \$ 5 1 0	a \$ 5 1 0	a \$ 5 1 0	a \$ 5 1 0	a \$ 5 1 0	a \$ 5 1 0	a \$ 5 1 0	none	none
fire or police station	p a	p a	p a	p a	p a	p s	p a	1 space per each 2 employees	none
food catering facility				p a	p a			1 space per each employee	1 berth for each 10,000 sq. ft. of enclosed gross floor area
funeral home, mortuary			p	p	p			1 space per 1000 sq. ft. of enclosed gross floor area	none
furniture store				p a	p a			1 space per 1000 sq. ft. of enclosed gross floor area	1 berth per each 10,000 sq. ft. of enclosed floor area up to 30,000 sq. ft. + 1 berth per each 25,000 sq. ft. of enclosed floor area over 30,000 sq. ft.
garage (community)			p a	p a	p a			none	none
garage (private customer and employee)				a	a			none	none
garage (private residential)	a	a	a	a		a	a	none	none
garage (public)				p a	p a			none	none
garage sale/ yard sale ¹¹	a	a	a	a		a	a	none	none
garden, greenhouse (private residential) ¹²	a	a	a	a		a	a	none	none

¹¹Zoning permits, occupancy permits, and the Borough's permission are not required for the establishment or existence of this use.

¹²Zoning permits, occupancy permits, and the Borough's permission are not required for the establishment or existence of this use.

Land Use	R-1	R-2	R-3	G-1	G-2	A-1	R-G	Required Off-Street Parking Spaces	Required Off-Street Loading Berths
gasoline station (All gas station/ convenience store businesses shall be classified as a gas station in this table)				p a	p a			1 space per each fuel pump (the space by the pump itself may not be counted)	none
golf course (non-miniature)				p a	p a			100 spaces per each 9 holes	none
golf course (miniature)				p a	p a			1 space per every 3 holes	none
golf driving range				a	a			1 space per every 2 tees	none
government building		p a	p a	p a	p a		p a	1 space per each 200 sq. ft. of enclosed gross floor area used by the public + 1 space per each 600 sq. ft. of enclosed gross floor area not used by the public	none
grocery store, supermarket				s A R T I C L E 3		p	p	1 space per each 200 sq. ft. of enclosed gross floor area + 100% of the additional parking spaces required by this table for other land uses in the same building (e.g., restaurant)	1 berth for each 5000 sq. ft. of enclosed gross floor area up to 10,000 sq. ft. + 1 berth per each 20,000 sq. ft. of enclosed gross floor area over 10,000 sq. ft.
group home exclusively for a class of people protected by the Americans with Disabilities Act, the Fair Housing Act, or their amendments ¹³	p	p	p	p	p	p	p	2 spaces per dwelling + 1 space per every 2 bedrooms over 2 bedrooms in each dwelling	none

¹³Such classes include the elderly, the homeless, recovering drug addicts, persons with AIDS, the mentally challenged, and the mentally ill.

Article 2, Zoning District Provisions, 48

Land Use	R 1	R 2	R 3	C	A	R C	Required Off-Street Parking Spaces	Required Off-Street Loading Berths	
group home beyond those mentioned above			p	p			1 space per each employee + 1 space per every 2 residents if they are allowed to own and operate a motor vehicle	none	
gunsmith, hunting supplies store				p	p		1 space per each 350 sq. ft. of enclosed gross floor area	1 berth for each 5000 sq. ft. of enclosed gross floor area up to 10,000 sq. ft. + 1 berth per each 20,000 sq. ft. of enclosed gross floor area over 10,000 sq. ft.	
hardware store			S A R T I C L E 3	p a	p a		1 space per each 400 sq. ft. of enclosed gross floor area	1 berth for each 10,000 sq. ft. of enclosed gross floor area	
health club			S A R T I C L E 3	p a	p a		1 space per each 300 sq. ft. of enclosed gross floor area	none	
heavy industrial use as defined in Article 8, "Terminology"				S A R T I C L E 3			1 space per each 500 sq. ft. of enclosed gross floor area for the first 25,000 sq. ft. of gross floor area + 1 space per each 650 sq. ft. of enclosed gross floor area for the next 25,000 sq. ft. + 1 space per each 800 sq. ft. of enclosed gross floor area over 50,000 sq. ft.	1 berth per each 10,000 sq. ft. of enclosed floor area up to 30,000 sq. ft. + 1 berth per each 25,000 sq. ft. of enclosed floor area over 30,000 sq. ft.	
historical use or historical museum			p	p	p		1 space per 1000 sq. ft. of enclosed gross floor area	none	
home occupation (see §505)	a § 5 0 0 5	a § 5 0 0 5	a § 5 0 0 5	a § 5 0 0 5		a § 5 0 0 5	a § 5 0 0 5	There is no parking requirement for minor impact home occupations beyond what is required for the involved home. The parking requirements for major impact home occupations (beyond what is required for the involved home) shall be determined in the involved special exception hearing (see Section 505).	There is no loading requirement for minor impact home occupations. The loading requirements for major impact home occupations shall be determined in the involved special exception hearing (see Section 505).

Land Use	R 1	R 2	R 3	O	E	A	P	G	Required Off-Street Parking Spaces	Required Off-Street Loading Berths
health club									1 space per each 300 sq. ft. of enclosed gross floor area	none
heavy industrial use as defined in Article 8, "Terminology"									1 space per each 500 sq. ft. of enclosed gross floor area for the first 25,000 sq. ft. of gross floor area + 1 space per each 650 sq. ft. of enclosed gross floor area for the next 25,000 sq. ft. + 1 space per each 800 sq. ft. of enclosed gross floor area over 50,000 sq. ft.	1 berth per each 10,000 sq. ft. of enclosed floor area up to 30,000 sq. ft. + 1 berth per each 25,000 sq. ft. of enclosed floor area over 30,000 sq. ft.
historical use or historical museum									1 space per 1000 sq. ft. of enclosed gross floor area	none
home occupation (see §505)									There is no parking requirement for minor impact home occupations beyond what is required for the involved home. The parking requirements for major impact home occupations (beyond what is required for the involved home) shall be determined in the involved special exception hearing (see Section 505).	There is no loading requirement for minor impact home occupations. The loading requirements for major impact home occupations shall be determined in the involved special exception hearing (see Section 505).
hospital									1 space per every 2 beds + 1 space for each 5 outpatients at the peak outpatient period + 1 space per each 1.5 employees + 1 space per each hospital vehicle (Bassinets may not be counted as beds.)	1 berth for each 10,000 sq. ft. of enclosed gross floor area
hotel, motel, inn									1 space per each guest room + 50% of the parking spaces that this table would require for other commercial uses within the same building (e.g., restaurant)	none

Article 2, Zoning District Provisions, 50

Land Use	R 1	R 2	R 3	C 1	C 2	A 1	A 2	Required On-Site Parking Spaces	Requires Off-Street Loading Berms
machinery sales and/or service business (farm machinery, construction equipment, industrial or mining equipment, commercial trucks, boats etc...)				p	p	p		1 space per each 600 sq. ft. of enclosed gross floor area + 1 space for each 2500 sq. ft. of outside display area + 2 spaces per each service bay + 1 space per each employee	none
meeting room facility other than those listed				p a	p a			1 space for each 4 seats or 1 space for each 100 sq. ft. of gross floor area, whichever is less	none
mining and/or mineral extraction facility						p		1 space per employee + 1 space for each company vehicle	none
mobilehome containing no more than one dwelling	p	p	p	p				2 spaces per dwelling + 1 space per every 2 bedrooms over 2 bedrooms in each dwelling	none
mobilehome containing no more than two dwellings			p	p	p			2 spaces per dwelling + 1 space per every 2 bedrooms over 2 bedrooms in each dwelling	none
mobilehome containing more than two dwellings				p	p			2 spaces per dwelling + 1 space per every 2 bedrooms over 2 bedrooms in each dwelling	none
mobilehome park (leasing mobilehome lots and/or pads)						p		Each leased pad and/or lot must contain enough parking spaces to meet the requirements for the type of mobilehome that is to be sited there	none

Land Use	R 1	R 2	R 3	C 1	C 2	A 1	A 2	Required On-Site Parking Spaces	Required Off-Street Loading Berths
model home sales office			t A R T I C L E 4	t A R T I C L E 4	t A R T I C L E 4			See Article 4, "Temporary Uses"	See Article 4, "Temporary Uses"
movie theater (commercial)						p a	p a	1 space per each 6 fixed seats or 9 linear feet of fixed benches; if there is no fixed seating, 1 space for each 75 sq. ft. of enclosed gross floor area	none
multi-household residential complex sales office			t A R T I C L E 4	t A R T I C L E 4				See Article 4, "Temporary Uses"	See Article 4, "Temporary Uses"
museum (other than art or historical)						p a	p a	1 space per 1000 sq. ft. of enclosed gross floor area	none
nursery or greenhouse (commercial)						p a	p a	1 space per 1000 sq. ft. of enclosed gross floor area + 1 space per 2000 sq. ft. of outside sales area	none
office (business or professional, but not medical or dental)				s A R T I C L E 3		p a	p a	1 space per 300 sq. ft. of enclosed gross floor area	1 berth for each 10,000 sq. ft. of enclosed gross floor area
office (medical or dental)				s A R T I C L E 3		p a	p a	1 space per each 250 sq. ft. of enclosed gross floor area	1 berth for each 10,000 sq. ft. of enclosed gross floor area

Article 2, Zoning District Provisions, 52

Land Use	Required On-Street Parking Spaces								Required Off-Street Loading Berms	
	R-1	R-2	R-3	C-1	C-2	A-1	A-2	P-1		
park, playground, or other non-commercial recreational facility	p a	p a	p a	p a	p a	p a	p a	p a	1 space for every 4 persons of maximum design capacity for the facility	none
parking lot	a	a	a	p a	p a	a	p a		none	none
pet shop			p a	p a	p a				1 space per each 300 sq. ft. of enclosed gross floor area	none
pharmacy or drug store			S A R T I C L E 3		p a	p a			1 space per each 250 sq. ft. of enclosed gross floor area	none
photo- graphy studio			S A R T I C L E 3		p a	p a			1 space per each 400 sq. ft. of enclosed gross floor area	none
place of worship	p a	p a	p a	p a	p a	p a	p a	p a	1 space per each 6 fixed seats or 9 linear feet of fixed benches. If there is no fixed seating, 1 space for each 100 sq. ft. of enclosed gross floor area. For places of worship where 25% or more of the parishioners walk to such place, the parking space requirement may be reduced proportionately subject to the approval of the zoning officer.	none
printing and/or publishing facility					p a	p a			1 space per 1000 sq. ft. of enclosed gross floor area or 1 space per employee, whichever is greater	none
public utility structure (does not include cell sites or switching offices)		p a	p a	p a	p a	p a	p a	p a	1 space per employee if the involved structure is a building	none

Land Use	R 1	R 2	R 3	C 1	C 2	A 1	A 2	Required On-Street Parking Spaces	Required Off-Street Loading Berths
radio or television antenna	a § 5 1 5	a § 5 1 5	a § 5 1 5	a § 5 1 5	a § 5 1 5	a § 5 1 5	a § 5 1 5	none	none
radio or television station and its transmitting/receiving equipment (does not include cell sites or switching offices)					p			1 space per 1000 sq. ft. of enclosed gross floor area	none
railroad, bus, or other transit terminal or station				p a	p a			1 space per each 600 sq. ft. of gross floor area	none
railroad line, "rails-to-trails" facility	p a	p a	p a	p a	p a	p a	p a	none	none
railroad maintenance facility or switching yard					p			1 space per employee	none
repair shop (for common household appliances such as radios, televisions, and vacuum cleaners)	s A R T I C L E 3	s A R T I C L E 3	s A R T I C L E 3	p a	p a			1 space per each 600 sq. ft. of enclosed gross floor area	1 berth for each 10,000 sq. ft. of enclosed gross floor area
residential dwellings within a commercial building			a	a	a			2 spaces per dwelling + 1 space per every 2 bedrooms over 2 bedrooms in each dwelling + 100% of whatever this table requires for the building's commercial uses	whatever this table requires for the building's commercial uses

Article 2, Zoning District Provisions, 54

Land Use	R-1	R-2	R-3	R-4	A-1	A-2	R-1C	Required Off-Street Parking Spaces	Required On-Street Loading Berms	
residential house or building containing no more than one dwelling	p	p	p	p			p	p	2 spaces per dwelling + 1 space per every 2 bedrooms over 2 bedrooms in each dwelling	none
residential house or building containing no more than two dwellings		p	p	p					2 spaces per dwelling + 1 space per every 2 bedrooms over 2 bedrooms in each dwelling	none
residential house or building containing more than two dwellings				p	p				2 spaces per dwelling + 1 space per every 2 bedrooms over 2 bedrooms in each dwelling	none
residential house or building containing more than one dwelling, in which all dwellings are exclusively for the elderly				p	p				1 space per dwelling	none
restaurant (sit down), including restaurants with bars				S	A	R	p	p	1 space per each 300 sq. ft. of enclosed gross floor area	1 berth for each 10,000 sq. ft. of enclosed gross floor area
restaurant (fast food)				a	a	a	p	p	1 space per each 200 sq. ft. of enclosed gross floor area	1 berth for each 5000 sq. ft. of enclosed gross floor area up to 10,000 sq. ft. + 1 berth per each 20,000 sq. ft. of enclosed gross floor area over 10,000 sq. ft.

Land Use	R-1	R-2	R-3	C-1	C-2	A-1	A-2	Required Off-Street Parking Spaces	Required Off-Street Loading Berths
sales event (temporary)				t A R T I C L E 4	t A R T I C L E 4	t A R T I C L E 4		See Article 4, "Temporary Uses"	See Article 4, "Temporary Uses"
school (for dance, music, crafts, martial arts, or the fine arts)						p a	p a	1 space per each 200 sq. ft. of enclosed gross floor area.	none
school, public or private (elementary)	p a	p a	p a	p a	p a	p a	p a	1 space for each 20 students of design capacity + 1 space per each 400 sq. ft. of enclosed gross floor area for offices or teacher lounges	none
school, public or private (junior high)	p a	p a	p a	p a	p a	p a	p a	1 space for each 15 students of design capacity + 1 space for each 400 sq. ft. of enclosed gross floor area for offices or teacher lounges	none
school, public or private (high school or "vo-tech" school)	p a	p a	p a	p a	p a	p a	p a	1 space for each 10 students of design capacity + 1 space for each 400 sq. ft. of enclosed gross floor area for offices or teacher lounges	none
school (trade school)						p	p	1 space for each 2 students	none
self-service storage facility						p	p	1 space per each 2000 sq. ft. of enclosed gross floor area	none
sexually oriented business							s A R T I C L E 3	1 space per 200 sq. ft. of enclosed gross floor area. Adult theaters shall follow the parking requirements of commercial movie theaters.	1 berth for each 10,000 sq. ft. of enclosed gross floor area.

Article 2, Zoning District Provisions, 56

Land Use	R	S	C	L	A	B	Required Off-Street Parking Spaces	Required Off-Street Loading Berths
shopping center, shopping mall, department store, or retail store not listed in this table				p	p		Stores shall provide a minimum of 1 space per each 300 sq. ft. of enclosed gross floor area used for retail. Stores shall also provide 50% of the parking spaces that this table would require for non-retail uses within the same building (e.g., restaurants).	1 berth per each 10,000 sq. ft. of enclosed floor area up to 30,000 sq. ft. + 1 berth per each 25,000 sq. ft. of enclosed floor area over 30,000 sq. ft.
signs	a	a	a	a	a	a	none	none
	ARTICLE 6	ARTICLE 6	ARTICLE 6	ARTICLE 6	ARTICLE 6	ARTICLE 6		
skating rink				p	p		1 space for each 250 sq. ft. of enclosed gross floor area	none
slaughter-house					p		1 space per each 1000 sq. ft. of enclosed gross floor area	1 berth per each 10,000 sq. ft. of enclosed floor area up to 30,000 sq. ft. + 1 berth per each 25,000 sq. ft. of enclosed floor area over 30,000 sq. ft.
special event, festival, fair, exhibit, or show sponsored by a nonprofit organization	t	t	t	t	t	t	See Article 4, "Temporary Uses"	See Article 4, "Temporary Uses"
	ARTICLE 4	ARTICLE 4	ARTICLE 4	ARTICLE 4	ARTICLE 4	ARTICLE 4		
special event, festival, fair, exhibit, or show that is not in the above category				t	t	t	See Article 4, "Temporary Uses"	See Article 4, "Temporary Uses"
				ARTICLE 4	ARTICLE 4	ARTICLE 4		
stadium					p	p	1 space per every 5 fixed seats (20 inches of fixed bench shall be considered a fixed seat here)	none
					a	a		

Land Use	Zoning Districts							Required Off-Street Parking Spaces	Required On-Street Loading Berms
	R-1	R-2	R-3	C-1	A-1	R-30			
swimming pool (private residential)	a § 510	a § 510	a § 510	a § 510				none	none
swimming pool (public)				p a	p a			1 space for each 100 sq. ft. of water surface area + 1 space for each 30 sq. ft. of area used for spectator seating purposes	none
travel agency				p a	p a	p a		1 space per each 300 sq. ft. of enclosed gross floor area	none
truck terminal					p a	p a		1 space per 1000 sq. ft. of enclosed gross floor area or 1 space per employee, whichever is greater	none
veterinary office, animal clinic, or animal hospital					p	p		1 space per each 500 sq. ft. of enclosed gross floor area	none
warehouse					p	p		1 space per 2000 sq. ft. of enclosed gross floor area	1 berth per each 10,000 sq. ft. of enclosed floor area up to 30,000 sq. ft. + 1 berth per each 25,000 sq. ft. of enclosed floor area over 30,000 sq. ft.
yard decorations, gazebos ¹⁴	a	a	a	a	a	a	a	none	none

¹⁴Zoning permits, occupancy permits, and the Borough's permission are not required for the establishment or existence of this use.

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, and structures – except those noted under letter “B” above – shall follow the regulations in the table below.

REGULATION		R1	R2	R3	C	LI	A	RC	
non-corner lots	minimum front setback for non-corner lots	15 ft.	15 ft.	10 ft.	10 ft.	10 ft.	10 ft.	20 ft.	
	minimum side setback for non-corner lots	10 ft.	8 ft.	8 ft.	8 ft.	6 ft.	6 ft.	20 ft.	
	minimum rear setback for non-corner lots	15 ft.	10 ft.	10 ft.	6 ft.	6 ft.	6 ft.	20 ft.	
corner lots	minimum front setback for corner lots	15 ft.	15 ft.	10 ft.	10 ft.	10 ft.	10 ft.	20 ft.	
	minimum side street setback for corner lots	15 ft.	15 ft.	10 ft.	10 ft.	10 ft.	10 ft.	20 ft.	
	minimum non-side street setback for corner lots	10 ft.	8 ft.	8 ft.	8 ft.	6 ft.	6 ft.	20 ft.	
	minimum rear setback for corner lots	15 ft.	10 ft.	6 ft.	6 ft.	6 ft.	6 ft.	20 ft.	
height restrictions	maximum height for permitted principal uses	35 ft.	35 ft.	35 ft.	40 ft.	100 ft.	100 ft.	35 ft.	
	maximum height for permitted accessory uses	20 ft.	20 ft.	25 ft.	35 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	40%	50%	60%	60%			30%	

**ARTICLE III
SPECIAL EXCEPTIONS AND CONDITIONAL USES**

SECTION 300: THE PURPOSES, ORGANIZATION, AND APPLICABILITY OF ARTICLE III

Both a "special exception" and a "conditional use" are permissions granted to an applicant to use land in a zoning district for a purpose or land use that is not permitted outright (i.e., that is not a permitted principal or accessory use) in that district. Special exceptions and conditional uses are utilized by this ordinance because merely allowing and not allowing land uses is too narrow for sound planning in some zoning districts. Some land uses fall in between what is consistent and what is not consistent with a district's planned way of life. Furthermore, some uses should be located in a district, but should be very carefully sited or controlled in order to protect the district's overall quality of life. Establishing a special exception/conditional use system for Meyersdale that allows such land uses in appropriate zoning districts, subject to location and operation standards that are to protect the quality of life in those districts, is the general purpose of *Article 3*.

The major difference between special exceptions and conditional uses is that the former are granted or denied by the Zoning Hearing Board, while the latter are granted or denied by the Borough Council. Land uses that are allowed as special exceptions generally affect only their particular neighborhoods, while land uses that are allowed as conditional uses may affect the entire Borough – and thus, should be under the jurisdiction of the Borough's primary elected officials (i.e., the Council). The multi-page table under *letter "D"* of *Section 265 ("Land Uses, Off-Street Parking, and Off-Street Loading")* and other parts of this ordinance state which land uses are allowed in which zoning districts as special exceptions, and which land uses are allowed in which zoning districts as conditional uses¹⁵.

It is important to note that special exceptions and conditional uses are not deviations from this ordinance or its purposes listed in *Section 112 ("The General Purposes of This Ordinance")*. These uses are both envisioned by this ordinance and – if the location and operation standards prescribed by this article are followed – permitted by this ordinance.

The procedure that an applicant is to use in obtaining a special exception or a conditional use is provided in *Section 305, "The Procedure for Obtaining a Special Exception or a Conditional Use."* The standards that the Zoning Hearing Board or the Borough Council (as the case may be) is to use in determining whether or not a special exception or conditional use (as the case may be) should be granted to the applicant are provided in *Section 310, "The Standards that are to be Used to Grant a Special Exception or a Conditional Use."* This article and its regulations only apply to land uses that are proposed to be established in a zoning district where those uses are allowed only as special exceptions or conditional uses by *Section 265 ("Land Uses, Off-Street Parking, and Off-Street Loading")* or other parts of this ordinance.

¹⁵This ordinance currently does not allow any land uses in any districts as conditional uses.

SECTION 305: THE PROCEDURE FOR OBTAINING A SPECIAL EXCEPTION OR A CONDITIONAL USE

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

- A. Who May Apply:** Any landowner or tenant with the written permission of his or her landowner may apply for a special exception or conditional use.
- B. The Land Uses that may be Permitted through a Special Exception or a Conditional Use:** The only land uses that may be permitted through a special exception or a conditional use are those that are expressly permitted as special exceptions or conditional uses for the involved zoning district by *Section 265 ("Land Uses, Off-Street Parking, and Off-Street Loading")* or other parts of this ordinance.
- C. Applying to the Zoning Officer:** Any one of the aforementioned parties who wishes to establish a land use that is permitted in the involved zoning district as a special exception or a conditional use shall file an application with the Zoning Officer on a form supplied by the Borough. This application shall not be considered complete unless enough information is included on the form to enable the Zoning Hearing Board or the Borough Council (as the case may be) to determine if the proposed land use meets the standards given for that use under *Section 310*. Upon receiving a complete application, the Zoning Officer shall forward it to the Zoning Hearing Board if the application is for a special exception, or to Borough Council if the application is for a conditional use.
- D. The Procedure that the Zoning Hearing Board is to Use in Deciding on a Special Exception Application:** The procedure that the Zoning Hearing Board is to use in deciding whether or not to grant a special exception is given in *Section 705, "The Zoning Hearing Board," letter "H."*
- E. The Procedure that Borough Council is to Use in Deciding on a Conditional Use Application:** The procedure that Borough Council is to use in deciding whether or not to grant a conditional use is given in *Section 710, "The Borough Council," letter "B," number "3."*
- F. Burdens of Proof:** In both special exception hearings and conditional use hearings, the burden of proof shall be on the applicant to prove that his or her proposed use meets the standards prescribed for it by *Section 310, "The Standards that are to be Used to Grant a Special Exception or a Conditional Use."*
- G. Conditions:** In granting a special exception or a conditional use, the Zoning Hearing Board or the Borough Council (as the case may be) may attach reasonable conditions and safeguards (in addition to those prescribed by *Section 310*) as it may deem necessary to implement the purposes of this ordinance (see *Section 112, "The General Purposes of this Ordinance"*). Such conditions shall "run with the land," and shall not be tied solely to a particular property owner. If a condition is violated subsequent to the grant of a special exception or a conditional use, it shall be enforced according to the provisions of *Section 160, "Enforcement."*
- H. Appealing the Decision of the Zoning Hearing Board or the Borough Council:** The

decision of the Zoning Hearing Board regarding a special exception application, or the decision of the Borough Council regarding a conditional use application may be appealed to the relevant court of common pleas.

I. **Zoning and Occupancy Permits:** Zoning and occupancy permits shall be required for each approved special exception or conditional use. *Section 148 ("Zoning Permits")* and *Section 151 ("Occupancy Permits")* explain how and when to get these permits.

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

A. **The Purpose and Organization of this Section:** The purpose of this section is to provide standards that the Zoning Hearing Board is to use in deciding whether or not to grant a special exception use, or that the Borough Council is to use in deciding whether or not to grant a conditional use. Each land use or activity that is permitted as a special exception or a conditional use in one or more zoning districts by *Section 265 ("Land Uses, Off-Street Parking, and Off-Street Loading")* or another part of this ordinance is listed in alphabetical order under letter "B" below. Each application made under *Section 305 ("The Procedure for Obtaining a Special Exception or a Conditional Use")* must meet the standards given under the listing of the involved land use or activity in order to obtain a special exception or a conditional use. Note that both the standards for land uses that this ordinance permits as special exceptions and the standards for land uses that this ordinance permits as conditional uses are provided in the same list.

B. The Standards:

1. **BAKERY** -- These may be permitted in the R3 District as special exceptions only if...

a. the proposed land use will follow all provisions of this ordinance;

b. the proposed land use will not have a gross floor area of more than 3,000 square feet;

c. 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;

d. 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;

e. the proposed use will not congest the Borough's streets or highways;

f. 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;

- g. the proposed use will provide for safe automobile access that, where possible, minimizes the total number of access points on the involved street or highway;
- h. the proposed use will not require an uneconomical, inefficient, or illogical extension of public utilities and services; and
- i. 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.

2. BAIT SHOP – These may be permitted in the R3 District as special exceptions only if...

- a. the proposed land use will follow all provisions of this ordinance;
- b. the proposed land use will not have a gross floor area of more than 2,000 square feet;
- c. 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;
- d. 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;
- e. the proposed use will not congest the Borough's streets or highways;
- f. 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;
- g. the proposed use will provide for safe automobile access that, where possible, minimizes the total number of access points on the involved street or highway;
- h. the proposed use will not require an uneconomical, inefficient, or illogical extension of public utilities and services; and
- i. 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.

3. BARS, TAVERNS, NIGHT CLUBS, OR DANCE HALLS – These may be permitted in the R3 District as special exceptions only if...

- a. the proposed land use will follow all provisions of this ordinance, including all parking and buffering requirements;

- b. the proposed land use will not have a gross floor area of more than 4,000 square feet;
- c. 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;
- d. 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;
- e. the proposed use will not congest the Borough's streets or highways;
- f. 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;
- g. 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;
- h. the proposed use will not require an uneconomical, inefficient, or illogical extension of public utilities and services;
- i. the exterior areas of the proposed use will be adequately lighted;
- j. the hours of operation of the proposed use will not disturb the lifestyle of its neighbors;
- 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.

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

- a. the proposed land use will follow all provisions of this ordinance;
- b. the proposed land use will not have a gross floor area of more than 25% of the total gross floor area of the primary structure or 1500 square feet;
- c. 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;

- d. 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;
- e. the proposed use will not congest the Borough's streets or highways;
- f. 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;
- g. the proposed use will provide for safe automobile access that, where possible, minimizes the total number of access points on the involved street or highway;
- h. the proposed use will not require an uneconomical, inefficient, or illogical extension of public utilities and services; and
- i. 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.

5. BOOKSTORES – A bookstore may be permitted in the R3 District as a special exception only if...

- a. the proposed bookstore will follow all provisions of this ordinance;
- b. 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;
- c. the proposed bookstore will not congest the Borough's streets or highways;
- d. the proposed bookstore will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk, or parking area;
- e. the proposed bookstore 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;
- f. the proposed bookstore will not require an uneconomical, inefficient, or illogical extension of public utilities and services; and
- g. the proposed bookstore will not threaten the safety, health, morals, and

general welfare of the Borough and its cit

6. CLUBS/LODGES -- These may be permitted in the R3 District as special exceptions only if...

a. the proposed land use will follow all provisions of this ordinance, including all parking and buffering requirements;

b. the proposed land use will not have a gross floor area of more than 4,000 square feet;

c. 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;

d. 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;

e. the proposed use will not congest the Borough's streets or highways;

f. 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;

g. 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;

h. the proposed use will not require an uneconomical, inefficient, or illogical extension of public utilities and services;

i. the exterior areas of the proposed use will be adequately lighted;

j. the hours of operation of the proposed use will not disturb the lifestyle of its neighbors;

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.

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

- a. the proposed land use will not supply gasoline, diesel or any other fuels to automobiles, trucks or any other type of vehicles.
- b. the proposed land use will follow all provisions of this ordinance;
- c. the proposed land use will not have a gross floor area of more than 3,000 square feet;
- d. 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;
- e. 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;
- f. the proposed use will not congest the Borough's streets or highways;
- g. 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;
- h. the proposed use will provide for safe automobile access that, where possible, minimizes the total number of access points on the involved street or highway;
- i. the proposed use will not require an uneconomical, inefficient, or illogical extension of public utilities and services; and
- j. 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.

8. DRY CLEANERS – These may be permitted in the R3 District as special exceptions only if...

- a. the proposed land use will follow all provisions of this ordinance, including all parking and buffering requirements;
- b. the proposed land use will not have a gross floor area of more than 3,000 square feet;
- c. 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;
- d. 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;

- e. the proposed use will not congest the Borough's streets or highways;
- f. 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;
- g. 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;
- h. the proposed use will not require an uneconomical, inefficient, or illogical extension of public utilities and services;
- i. the exterior areas of the proposed use will be adequately lighted;
- j. the hours of operation of the proposed use will not disturb the lifestyle of its neighbors;
- 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.

9. FENCES, WALLS, AND OTHER SCREENS THAT ARE TALLER THAN THE HEIGHT LIMITS SET BY SECTION 510, "FENCES, WALLS, AND OTHER SCREENS" – Such fences, walls, and other screens may be permitted in any district as a special exception only if...

- a. the proposed fence, wall, or other screen will follow all other requirements of this ordinance;
- b. the proposed fence, wall, or other screen will be strong enough both to withstand any wind pressure that may be applied to it under normal storm conditions, and to avoid threatening the health, lives, or property of those around it;
- c. the proposed fence, wall, or other screen will not constitute a fire hazard;
- d. the proposed fence, wall, or other screen will not deny a significant amount of light or air to neighboring properties; and
- e. the proposed fence, wall, or other screen will not impair the sight lines or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk, or parking area.

10. FENCES, WALLS, AND OTHER SCREENS THAT EXCEED THE MAXIMUM SOLID TO OPEN PORTION RATIO SET BY SECTION 510, "FENCES, WALLS, AND OTHER SCREENS" – Such fences, walls, and other screens may be permitted in any district as a special exception only if...

- a. the proposed fence, wall, or other screen will follow all other requirements of this ordinance;
- b. the proposed fence, wall, or other screen will not deny a significant amount of light or air to neighboring properties;
- c. the proposed fence, wall, or other screen will be strong enough both to withstand any wind pressure that may be applied to it under normal storm conditions, and to avoid threatening the health, lives, or property of those around it; and
- d. the proposed fence, wall, or other screen will not impair the sight lines or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk, or parking area.

11. FENCES, WALLS, AND OTHER SCREENS THAT INCLUDE BARBS, THORNS, ELECTRIC WIRES DESIGNED TO SHOCK, OR OTHER HARMFUL COMPONENTS (see Section 510, "Fences, Walls, and Other Screens") – Such fences, walls, and other screens may be permitted in any district as a special exception only if...

- a. the proposed fence, wall, or other screen will follow all other requirements of this ordinance;
- b. the barbs, thorns, electric wires, or other harmful components are necessary to protect property or the public health;
- c. the barbs, thorns, electric wires, or other harmful components will be made as attractive as is possible;
- d. the proposed fence, wall, or other screen will be strong enough both to withstand any wind pressure that may be applied to it under normal storm conditions, and to avoid threatening the health, lives, or property of those around it;
- e. the proposed fence, wall, or other screen will not constitute a fire hazard; and
- f. the proposed fence, wall, or other screen will not impair the sight lines or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk, or parking area.

12. GROCERY STORES AND SUPERMARKETS – Such stores may be permitted in the R3 District as special exceptions only if...

- a. the proposed store will follow all provisions of this ordinance;
- b. the proposed store will not have a gross floor area of more than 5,000 square feet;
- c. the proposed store constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot;
- d. the proposed store 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, noise, or other noxious, offensive, or hazardous elements;
- e. the proposed store will not congest the Borough's streets or highways;
- f. the proposed store will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk, or parking area;
- g. the proposed store 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;
- h. the proposed store will not require an uneconomical, inefficient, or illogical extension of public utilities and services;
- i. the hours of operation of the proposed use will not disturb the lifestyle of its neighbors; and
- j. 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.

13. HARDWARE STORE – These may be permitted in the R3 District as special exceptions only if...

- a. the proposed land use will follow all provisions of this ordinance, including all parking and buffering requirements;
- b. the proposed land use will not have a gross floor area of more than 4,000 square feet;
- c. 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;
- d. 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;

- e. the proposed use will not congest the Borough's streets or highways;
- f. 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;
- g. 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;
- h. the proposed use will not require an uneconomical, inefficient, or illogical extension of public utilities and services;
- i. the exterior areas of the proposed use will be adequately lighted;
- j. the hours of operation of the proposed use will not disturb the lifestyle of its neighbors;
- 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.

14. HEALTH CLUB – These may be permitted in the R3 District as special exceptions only if...

- a. the proposed land use will follow all provisions of this ordinance, including all parking and buffering requirements;
- b. the proposed land use will not have a gross floor area of more than 4,000 square feet;
- c. 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;
- d. 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;
- e. the proposed use will not congest the Borough's streets or highways;

- f. 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;
- g. 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;
- h. the proposed use will not require an uneconomical, inefficient, or illogical extension of public utilities and services;
- i. the exterior areas of the proposed use will be adequately lighted;
- j. the hours of operation of the proposed use will not disturb the lifestyle of its neighbors;
- 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.

15. HEAVY INDUSTRIAL – Heavy Industrial, as defined in *Section 8*, may be permitted in the L1 District as special exceptions only if...

- a. the proposed land use will follow all provisions of this ordinance;
- b. 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;
- c. 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 because of reasonable distance buffers as defined in "d" below, between heavy industrial land uses and less intensive land uses;
- d. The proposed land use property borders shall maintain a buffer of 500 feet from any residential land uses, 400 feet from any commercial land uses and 700 feet from any park, conservation area, church, school or public gathering place. A buffer of natural vegetation shall also be required on property borders visible from any of the aforementioned land uses or public-right-of-ways according to "Section 510: FENCES, WALLS, AND OTHER SCREENS" and "Section 520: REQUIRED BUFFERS."
- e. the proposed use will not congest the Borough's streets or highways;

f. 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;

g. the proposed use will provide for safe automobile access that, where possible, minimizes the total number of access points on the involved street or highway;

h. the proposed use will not require an uneconomical, inefficient, or illogical extension of public utilities and services; and

i. 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.

16. MAJOR IMPACT HOME OCCUPATIONS – A major impact home occupation (see Section 505, "Home Occupations") may be permitted in the R1, R2, R3, R4, C, and A Districts as a special exception only if it meets the conditions given below. If the Zoning Hearing Board decides to grant a special exception to such a business, the Board shall set a required number of off-street parking spaces and a required number of off-street loading berths for the occupation (beyond the requirements of the involved home). These required numbers shall be based on a case-by-case analysis of the home occupation's parking and loading needs, and may use the parking and loading requirements of Section 265 ("Land Uses, Off-Street Parking, and Off-Street Loading"), letter "D," as a guide.

A major impact home occupation may be permitted as a special exception only if...

a. there will be no evidence of the home occupation's existence on the exterior of its building except for a sign that meets the requirements of Article 6 ("Signs");

b. there will be no retail sales directly to customers on the premises, except via the mail, telephone, or Internet;

c. the area devoted to the home occupation will not exceed 25% of the involved residential unit's total ground floor area;

d. no exterior displays of goods or interior displays of goods that are visible from the outside of the involved residence will be utilized;

e. no materials or products will be stored outside the dwelling unit unless they are kept in an enclosed structure that complies with the requirements of this ordinance;

f. no equipment or process will be used in the home occupation that creates noise, vibration, glare, fumes, odors or electrical interference detectable to normal senses in other residential units;

- g. no equipment or process will be used that creates visual or audible interference in any radio or television outside of the involved residential unit, or that causes significant fluctuations in line voltage outside of that unit;
- h. the home occupation will only employ members of the household living in the involved dwelling unit;
- i. the proposed home occupation is not a nursery school, dancing school, exercise or health center, day care center, funeral home, mortuary, eating or drinking establishment, animal kennel, animal hospital, veterinarian office, boarding house, personal care home, medical or dental clinic, motor vehicle repair or rental facility, theater, or commercial recreation facility; and
- j. refuse from the proposed home occupation will be stored in a location that is as undetectable as possible from neighboring lots, and will be removed for disposal regularly.

17. OFFICES (BUSINESS OR PROFESSIONAL, BUT NOT MEDICAL OR DENTAL) – Such offices may be permitted in the R3 District as special exceptions only if...

- a. the proposed office will follow all provisions of this ordinance;
- b. the proposed office will not have a gross floor area of more than 3500 square feet;
- c. the proposed office is consistent with the character and type of development in the area surrounding the involved lot;
- d. the proposed office 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;
- e. the proposed office will not congest the Borough's streets or highways;
- f. the proposed office will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk, or parking area;
- g. the proposed office 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;
- h. the proposed office will not require an uneconomical, inefficient, or illogical extension of public utilities and services;

- i. refuse from the proposed office will be stored in a location that is as undetectable as possible from neighboring lots, and will be removed for disposal regularly; and
- j. the proposed office will not threaten the safety, health, morals, and general welfare of the Borough and its citizens.

18. OFFICES (MEDICAL OR DENTAL, BUT NOT BUSINESS OR PROFESSIONAL) – Such offices may be permitted in the R3 District as special exceptions only if...

- a. the proposed office will follow all provisions of this ordinance;
- b. the proposed office will not have a gross floor area of more than 3500 square feet;
- c. the proposed office is consistent with the character and type of development in the area surrounding the involved lot;
- d. the proposed office 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;
- e. the proposed office will not congest the Borough's streets or highways;
- f. the proposed office will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk, or parking area;
- g. the proposed office 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;
- h. the proposed office will not require an uneconomical, inefficient, or illogical extension of public utilities and services;
- i. refuse from the proposed office will be stored in a location that is as undetectable as possible from neighboring lots, and will be removed for disposal regularly; and
- j. the proposed office will not threaten the safety, health, morals, and general welfare of the Borough and its citizens.

19. OFF-STREET LOADING PLANS – An off-street loading plan that reduces the number of off-street loading berths required by this ordinance for a particular land use may be approved as a special exception in any zoning district only if that plan meets the requirements of Section 530, "Off-Street Parking and Loading Plans," letter "C."

20. OFF-STREET PARKING PLANS – An off-street parking plan that reduces the number of off-street parking spaces required by this ordinance for a particular land use may be approved as a special exception in any zoning district only if that plan meets the requirements of *Section 530, "Off-Street Parking and Loading Plans,"* letter "B."

21. PHARMACIES OR DRUG STORES – Such stores may be permitted in the R3 District as special exceptions only if...

- a. the proposed store will follow all provisions of this ordinance;
- b. the proposed store will not have a gross floor area of more than 4,000 square feet;
- c. the proposed store constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot;
- d. the proposed store 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, noise, or other noxious, offensive, or hazardous elements;
- e. the proposed store will not congest the Borough's streets or highways;
- f. the proposed store will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk, or parking area;
- g. the proposed store 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;
- h. the proposed store will not require an uneconomical, inefficient, or illogical extension of public utilities and services;
- i. the hours of operation of the proposed use will not disturb the lifestyle of its neighbors; and
- j. 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.

22. PHOTOGRAPH STUDIO - Such restaurants may be permitted in the R3 District as special exceptions only if...

- a. the proposed restaurant will follow all provisions of this ordinance;

- b. the proposed restaurant will not have a gross floor area of more than 2,000 square feet;
- c. the proposed restaurant constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot;
- d. the proposed restaurant 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;
- e. the proposed restaurant will not congest the Borough's streets or highways;
- f. the proposed restaurant will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk, or parking area;
- g. the proposed restaurant 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;
- h. the proposed restaurant will not require an uneconomical, inefficient, or illogical extension of public utilities and services;
- i. the exterior areas of the proposed restaurant will be adequately lighted;
- j. the hours of operation of the proposed restaurant will not disturb the lifestyle of its neighbors;
- k. refuse from the proposed restaurant 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 restaurant will not threaten the safety, health, morals, and general welfare of the Borough and its citizens.

23. RADIO AND/OR TELEVISION ANTENNAS THAT DO NOT MEET THE REQUIREMENTS OF SECTION 515, "RADIO AND/OR TELEVISION ANTENNAS," LETTER "C" – Such devices may be permitted as special exceptions in all zoning districts only if...

- a. the minimum setbacks from property lines given in *Section 515* do not allow an antenna to be located anywhere on the involved lot at a reasonable cost;
- b. the restrictions of *Section 515* practically forbid quality reception or transmission on the involved lot;

- c. the proposed antenna is consistent with the character and type of development in the neighborhood surrounding the involved lot;
 - d. the proposed antenna will not substantially impair, alter, or detract from the value, use, or enjoyment of surrounding properties via vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, or other noxious, offensive, or hazardous elements; and
 - e. the proposed antenna will not impair the access, sight lines, or safety of any public roadways or driveways, private roadways or driveways, pedestrian walks, or parking areas.
- 24. REPAIR SHOP** (common household product such as VCR's, vacuum cleaners, PC's, TV's, etc.)
- Such repair shops may be permitted as an accessory in the R1, R2 and R3 Districts as special exceptions only if...
- a. the proposed repair shop will follow all provisions of this ordinance;
 - b. the proposed repair shop will not have a gross floor area of more than 20% of the existing building if an accessory and/or not more than 1,000 square feet;
 - c. the proposed repair shop constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot;
 - d. the proposed repair shop 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;
 - e. the proposed repair shop will not congest the Borough's streets or highways;
 - f. the proposed repair shop will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk, or parking area;
 - g. the proposed repair shop 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;
 - h. the proposed repair shop will not require an uneconomical, inefficient, or illogical extension of public utilities and services;
 - i. the exterior areas of the proposed repair shop will be adequately lighted;

- j. the hours of operation of the proposed repair shop will not disturb the lifestyle of its neighbors;
- k. refuse from the proposed repair shop 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 repair shop will not threaten the safety, health, morals, and general welfare of the Borough and its citizens.

25. RESTAURANTS ("SIT DOWN," INCLUDING RESTAURANTS WITH BARS)--
Such restaurants may be permitted in the R3 District as special exceptions only if...

- a. the proposed restaurant will follow all provisions of this ordinance;
- b. the proposed restaurant will not have a gross floor area of more than 3,000 square feet;
- c. the proposed restaurant constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot;
- d. the proposed restaurant 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;
- e. the proposed restaurant will not congest the Borough's streets or highways;
- f. the proposed restaurant will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk, or parking area;
- g. the proposed restaurant 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;
- h. the proposed restaurant will not require an uneconomical, inefficient, or illogical extension of public utilities and services;
- i. the exterior areas of the proposed restaurant will be adequately lighted;
- j. the hours of operation of the proposed restaurant will not disturb the lifestyle of its neighbors;
- k. refuse from the proposed restaurant 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 restaurant will not threaten the safety, health, morals, and general welfare of the Borough and its citizens.

26. SEXUALLY ORIENTED BUSINESSES -- Adult arcades, adult bookstores, adult video stores, adult cabarets, adult motels, adult motion picture theaters, adult theaters, escort agencies, nude model studios, sexual encounter centers, and other businesses classified as sexually oriented businesses by this ordinance may be permitted in the L1 District as special exceptions only if they meet the conditions below.

Note that the provisions of this sub-section do not apply to modeling classes operated by (1) a proprietary school licensed by the Commonwealth of Pennsylvania; (2) a college, junior college, or university supported entirely or partly by taxation; or (3) a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation. Furthermore, the provisions of this sub-section do not apply to structures that (1) have no signs visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and (2) contain a class where students must enroll at least 3 days in advance, and where no more than 1 nude model is on the premises at any one time.

For the purposes of *letter "a"* below, measurements shall be made in a straight line -- without regard to intervening structures or objects -- from the nearest portion of a building or structure used as a part of a premises where a sexually oriented business is conducted to the nearest property line of a premises of a church; public or private pre-elementary, elementary, or secondary school; public library; child care facility; child-oriented business; nursery school; or affected public park. For the purposes of *letter "b"* below, measurements shall be made in a straight line -- without regard to intervening structures or objects -- from the closest exterior wall of the structure in which each sexually oriented business is located.

A sexually oriented business that is legally operating (1) on the effective date of this ordinance's enactment (see *Section 118, "The Effective Date of This Ordinance's Enactment"*), and (2) in violation of *letters "a" or "b"* below shall be deemed a nonconforming use (see *Section 154, "Nonconformities"*). However, no sexually oriented business shall be deemed a nonconforming use due to the subsequent location of a church; public or private pre-elementary, elementary, or secondary school; public library; child care facility; child-oriented business; nursery school; or public park within 1000 feet of that business.

Sexually oriented businesses may be permitted as special exceptions only if...

a. the proposed business will not be located within 1,000 feet of a church; a public or private pre-elementary, elementary, or secondary school;

a public library; a child care facility or nursery school; a public park adjacent to any residential district; or a child-oriented business;

- b. the proposed business will not be located within 1,000 feet of another sexually oriented business;
- c. the proposed business will follow all provisions of this ordinance, including all parking and buffering requirements;
- d. the proposed business constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot;
- e. the proposed business 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;
- f. the proposed business will not congest the Borough's streets or highways;
- g. the proposed business will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk, or parking area;
- h. the proposed business 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;
- i. the proposed business will not require an uneconomical, inefficient, or illogical extension of public utilities and services;
- j. the exterior areas of the proposed business will be adequately lighted;
- k. the hours of operation of the proposed business will not disturb the lifestyle of its neighbors; and
- l. refuse from the proposed business will be stored in a location that is undetectable as possible from neighboring lots; and will be removed for disposal regularly.

**ARTICLE IV
TEMPORARY USES**

SECTION 400: THE PURPOSES, ORGANIZATION, AND APPLICABILITY OF ARTICLE IV

Section 265 ("Land Uses, Off-Street Parking, and Off-Street Loading") specifies that some land uses may be established in certain zoning districts as "temporary uses." This means that these uses may be operated in these districts (1) only for a limited period of time, and (2) only if they are approved by Borough Council. These uses are typically a worthwhile or even vital part of modern community life. However, the drastic effects that they can sometimes have on their neighborhoods necessitates their having a limited lifespan and being under the jurisdiction of Council. Establishing such a temporary use system for Meyersdale is the general purpose of Article 4.

It is important to note that temporary uses -- like special exceptions and conditional uses -- are not deviations from this ordinance or its purposes listed in *Section 112 ("The General Purposes of This Ordinance")*. These uses are both envisioned by this ordinance and -- if the provisions of this article are followed -- permitted by this ordinance.

The procedure that an applicant is to use to obtain a temporary use is spelled out in *Section 405 ("The Procedure for Obtaining a Temporary Use")*. The standards that the Borough Council is to use in determining (1) whether or not a temporary use should be granted to an applicant, and (2) how long the temporary use should be allowed to exist are provided in *Section 410 ("The Standards that are to be Used to Grant a Temporary Use")*. This article only applies to land uses that are proposed to be established in a zoning district where they are allowed as temporary uses by *Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."*

SECTION 405: THE PROCEDURE FOR OBTAINING A TEMPORARY USE

All applications for temporary uses shall be made according to the following rules.

A. Who May Apply: Any landowner or tenant with the written permission of his or her landowner may apply for a temporary use.

B. The Land Uses that may be Permitted through a Temporary Use: The only land uses that may be permitted through a temporary use are those that are expressly permitted as temporary uses in the involved zoning district by *Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."*

C. Applying to the Zoning Officer: Any one of the aforementioned parties who wishes to establish a temporary use shall file an application with the Zoning Officer on a form supplied by the Borough. This application shall state the period of time during which the applicant wishes to operate the proposed use, and shall not be considered complete unless enough information is included on the form to enable Borough Council to determine if the proposed use meets the standards of *Section 410*. Upon receiving a complete application, the Zoning Officer shall forward it to Borough Council.

D. The Procedure that Borough Council is to Use in Deciding on a Temporary Use

Application: The procedure that Borough Council is to use in deciding whether or not to grant a temporary use is given in *Section 710, "The Borough Council,"* letter "B," number "2."

E. Burdens of Proof: In temporary use hearings, the burden of proof shall be on the applicant to prove that his or her proposed use meets the standards prescribed for it by *Section 410, "The Standards that are to be Used to Grant a Temporary Use."*

F. Appealing the Decision of the Borough Council: The decision of the Borough Council regarding a temporary use application may be appealed to the relevant court of common pleas.

G. Occupancy Permits: An applicant who successfully applies for a temporary use must also obtain an occupancy permit for that use after all development activities on the involved site are completed. *Section 151, "Occupancy Permits,"* explains how to obtain such a permit.

H. Violations: If a party that receives a temporary use subsequently violates the standards under which that use was granted, those standards shall be enforced according to the provisions of *Section 160, "Enforcement."*

SECTION 410: THE STANDARDS THAT ARE TO BE USED TO GRANT A TEMPORARY USE

A. The Purpose and Organization of this Section: The purpose of this section is to provide standards that the Borough Council is to use in (1) deciding whether or not to grant a temporary use, and (2) determining how long an approved temporary use should be allowed to exist. The former set of standards are listed under letter "B" below, while the latter set are listed under letter "C." Each land use or activity that is permitted as a temporary use in one or more zoning districts by *Section 265 ("Land Uses, Off-Street Parking, and Off-Street Loading")* is listed in alphabetical order below.

TEMPORARY USES	ZONING DISTRICTS IN WHICH THEY ARE PERMITTED
model home sales office	R3, C, and L1
multi-household residential complex sales office	R3 and C
sales event (temporary)	R3, C, and L1
special event, festival, fair exhibit, or show sponsored by a nonprofit organization	all zoning districts
special event, festival, fair, exhibit, or show that is not in the above category	R3, C and L1

B. The Standards that the Borough Council is to Use in Determining Whether or Not

to Grant a Temporary use: Borough Council may only grant a temporary use to an applicant if the applicant...

1. provides proof that the proposed use will have adequate off-street parking,
2. provides proof that the proposed use will have adequate pedestrian and traffic access,
3. has obtained all licenses and permits on the proposed use's behalf that governmental agencies may require for the selling or handling of food or other products,
4. has notified the Borough's Chief of Police and Fire Chief of the proposed use,
5. provides Council with a letter from the owner of the land on which the proposed use will occur that approves the use (if the applicant does not own the land himself), and
6. provides Council with a letter stating that he or she will assume responsibility for any on-site activities that are directly related to the proposed temporary use.

C. The Standards that the Borough Council is to Use in Determining How Long a Temporary Use should be Allowed to Exist: If an application for a temporary use is approved, Council shall determine the dates between which the use will be permitted to operate. In making this determination, Council shall weigh the temporary use's benefit to the community against any burdens that it may cause its neighbors. However, the Council shall not allow a single land use to have temporary sales events for more than 30 days in any calendar year.

**ARTICLE V
SUPPLEMENTAL REGULATIONS**

SECTION 500: THE GENERAL PURPOSE AND APPLICABILITY OF THIS ARTICLE

There are sets of regulations in this ordinance that apply to land uses, lots, and/or structures that can be located in several of Meyersdale's zoning districts. Some of these regulations are given just once – in this article. This is a simpler and shorter way of providing these regulations than repeating them once in each applicable zoning district's provisions (zoning district provisions constitute *Article 2*). Thus, each section of this article is applicable to a particular land use, lot, or structure in a particular zoning district only if *Article 2* says so.

SECTION 505: HOME OCCUPATIONS

A. The Purposes, Organization, and Applicability of this Section: A home occupation is defined as a business that is conducted (1) entirely within a dwelling unit; (2) entirely by the members of the household residing in that unit; and (3) in a manner that is clearly incidental, accessory, and subordinate to the unit's primary residential use. Most modern zoning ordinances regulate home occupations because of the deleterious effects that these businesses can have on their neighborhoods: a home occupation can congest its neighborhood's parking spaces and streets; generate intrusive amounts of noise, vibration, glare, electrical interference, odors, and radio/television signal disruption; draw large trucks for delivery purposes; erect a disturbing number of signs; utilize unsightly outdoor storage areas; and generally change the character of its neighborhood from residential to commercial. Many zoning ordinances attempt to minimize such damaging effects by designating all home occupations as special exceptions and requiring each to procure the approval of the Zoning Hearing Board – which is to reject any such business that will adversely affect its neighborhood.

However, more and more home occupations are being created that have little or no deleterious effects on their neighborhoods. Many professionals now "telecommute" from home, draw no extra parking or traffic activity, generate no noise or other interference, and have no signs. While home occupations that could have a significant effect on their neighborhoods clearly should still lie under the Zoning Hearing Board's jurisdiction, those that have little or no such effects should be excused from the paperwork, time, and expense involved in a special exception application.

This ordinance attempts to establish such a system by dividing home occupations into two categories: **minor impact home occupations** (which will have little or no effect on their neighborhoods) and **major impact home occupations** (which may have some effects on their neighborhoods). The Zoning Officer shall determine which of these categories a particular home occupation falls into according to the standards of *Letter "B"* below. If a particular home occupation is determined to be a minor impact home occupation according to these standards, then it may be established without any further approvals. However, if it is determined to be a major impact home occupation, then *letter "C"* below requires that it must be approved by

the Zoning Hearing Board as a special exception according to the rules of *Article 3, "Special Exceptions and Conditional Uses."*

This section applies to all home occupations within the Borough of Meyersdale, regardless of the zoning district in which they are located.

B. Distinguishing Minor Impact Home Occupations from Major Impact Home Occupations:

1. Any person who wishes to establish a home occupation within the Borough shall file an application for a home occupation with the Zoning Officer on a form supplied by the Borough. This application shall not be considered complete unless enough information is included on the form to enable the Zoning Officer to determine whether the proposed home occupation is a minor impact home occupation or a major impact home occupation according to the standards below.
2. After a complete application has been filed, the Zoning Officer shall have 15 days to determine the status of the proposed home occupation. When the Zoning Officer fails to make this determination within 15 days, then the proposed home occupation shall automatically be classified as a minor impact home occupation.
3. The Zoning Officer shall determine that a proposed home occupation would be a major impact home occupation unless it meets the standards below -- in which case it shall be classified as a minor impact home occupation and may be established without any further approvals.
 - a. A minor impact home occupation shall receive and ship any goods, chattels, materials, supplies, or items of any kind exclusively in either (1) a passenger vehicle that is owned by the resident and that makes no more than one such delivery trip per day, or (2) a parcel courier vehicle that stops at the dwelling unit no more than once per day.
 - b. It shall use no equipment or appliances other than those that are customarily used in common residences or offices.
 - c. If it is a tutoring or teaching service, then no more than four students shall be tutored or taught at the involved dwelling at any one moment.
 - d. A minor impact home occupation shall place no sign or other evidence of that occupation on the exterior of its building.
 - e. A minor impact home occupation shall conduct no retail sales directly to customers on the premises unless it is over the mail, telephone, or Internet.
 - f. A minor impact home occupation shall use no more than twenty-five percent of the ground floor area of the involved dwelling unit (excluding garages).

- g. A minor impact home occupation shall have no exterior displays of goods and no interior displays of goods which can be seen from public right-of-ways.
 - h. A minor impact home occupation shall store no materials or products outside the dwelling unit except in an enclosed structure which complies with the requirements of this ordinance.
 - i. A minor impact home occupation shall create a volume of traffic and a demand for parking spaces that is no greater than would normally be expected in its neighborhood of Meyersdale.
 - j. A minor impact home occupation shall use no pieces of equipment or processes that create noise, vibration, glare, fumes, odors, visual or audio television or radio signal interference, or electrical interference which is detectable to normal senses in other residential units.
 - k. Nursery schools, day care centers, dancing schools, exercise or health centers, funeral homes, mortuaries, eating or drinking establishments, animal kennels, animal hospitals, veterinarian offices, boarding houses, medical or dental clinics or offices, transportation vehicle repair or rental facilities, theaters, and any other business that does not meet the definition of home occupations given under *letter "A"* above shall not be classified as minor impact home occupations.
4. The Zoning Officer's determination on the matter, along with any materials that support this determination, shall be mailed to the applicant personally no later than the day after the determination is made.
5. The Zoning Officer's determination on this matter may be appealed to either the Zoning Hearing Board or the relevant court of common pleas.
6. There shall be no off-street parking space or loading berth requirements for minor impact home occupations beyond what is required for the involved dwelling unit.

C. Major Impact Home Occupations: If a proposed home occupation is determined to be a major impact home occupation by the Zoning Officer, then its proprietor must apply for a special exception use before the Zoning Hearing Board according to the provisions of *Article 3, "Special Exceptions and Conditional Uses."* Note that any off-street parking space or loading berth requirements for these occupations (beyond the requirements of the involved dwelling unit) shall be set by the Zoning Hearing Board at the involved hearing.

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."
MINIMUM SETBACKS FOR NON-CORNER LOTS front setback all other setbacks	3 feet 3 feet	None.
MINIMUM SETBACKS FOR CORNER LOTS front setback side street setback all other setbacks	3 feet 3 feet 3 feet	None.
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 Article 3, "Special Exceptions and Conditional Uses."

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.

SECTION 515: RADIO AND/OR TELEVISION ANTENNAS

A. The Purpose and Applicability of this Section: Radio and television antennas are a valuable and necessary component of the modern American community. However, the size and location of these items must be limited in the interests of the community's appearance, light, open space, and public safety. The purpose of this section is to limit radio and television antennas while still allowing them to perform their functions.

This section applies to all radio and/or television antennas that are not part of a cellular site (i.e., cell site or radio link), cellular switching office, commercial radio station, or commercial television station.

B. Radio and/or Television Antennas as Special Exceptions: If a radio and/or television antenna meets the size, and location requirements given under *letter "C"* below, then it is a permitted use in all zoning districts. Otherwise, it may be permitted in any district only as a special exception, subject to the requirements of *Article 3, "Special Exceptions and Conditional Uses."*

C. Limitations on the Size and Locations of Radio and/or Television Antennas: Unless a radio and/or television antenna is approved by the Zoning Hearing Board as a special exception under the requirements of *Article 3 ("Special Exceptions and Conditional Uses")*, it shall follow the size and location restrictions in the table below.

REGULATION	REQUIREMENT
MINIMUM SETBACKS FROM LOT LINES for front yards on all lots for side street yards on corner lots for all other yards	15 feet 15 feet 6 feet

REGULATION	REQUIREMENT
DISTANCE THAT EQUIPMENT WHICH IS MOUNTED ON A ROOF MUST BE FROM THE EDGE OF THAT ROOF for all roof sides	6 feet
MAXIMUM HEIGHTS	Equipment must obey the maximum building height of the district in which it is located. If it is mounted on a roof, it may rise only 10 feet from this roof.
MAXIMUM DIAMETERS FOR SATELLITE DISHES	3 feet

SECTION 520: REQUIRED BUFFERS

A. Section Purpose: Throughout this ordinance, some land uses are required to be "buffered" against other lots. This is required so that the unpleasant qualities of the one use shall not damage the character or value of the other. This section provides the specific details of this required buffering.

B. The Zoning Officer's Role: At the time that a developer who intends to construct a use that this ordinance requires to be buffered applies for a zoning permit, the Zoning Officer of the Borough of Meyersdale shall determine (1) if the developer intends to install a living fence or a non-living fence (options 1 and 2 of *Subsection "C"* below), and (2) if the "maximum height" limitations of *Section 510 ("Fences, Walls, and Other Screens") Subsection "B"* are too strict to allow for proper buffering. If the Zoning Officer finds that the answer to both of these questions is "yes," then he or she shall have the authority to increase the "maximum height" limitations of *Section 510, Subsection "B"* by no more than 100% for the involved property.

At the same time, the Zoning Officer shall determine (1) if the developer intends to install a natural landscape buffer (option 3 of *Subsection "C"* below), and (2) if the developer's proposed buffer is not long enough or not wide enough to protect the value of the adjacent properties. If the Zoning Officer determines that the answer to both of these questions is "yes," then he or she shall have the authority to require an increase in the size of the natural landscape buffer area.

C. Buffer/Screen Options: Required buffers shall be in one of the following three forms.

1. A living fence that adheres to the requirements of *Subsection "D" of this section*.
2. A non-living fence, wall, or screen that adheres to the requirements of *Subsection "E" of this section*.
3. A natural landscape that is sufficiently wide or hilly enough to hide the principal use of the lot that is required to be screened, and that adheres to the requirements of *Subsection "F" of this section*.

D. Provisions for Required Living Fences

1. Required living fences shall provide a year-round screen. In order to insure that this requirement will be met, living fences shall be composed of a mix of plants that is at least 75% evergreen.
2. Required living fences shall be in accordance with all of the provisions of *Section 510* of this ordinance ("*Fences, Walls, and Other Screens*"), except that they may be subject to the provisions of *Subsection "B" of this Section*.
3. Required living fences shall be either no less than 4 feet wide or no less than the width necessary to be opaque, whichever is more.
4. Required living fences shall be maintained so that they (1) follow the requirements of this section, and (2) continue to provide the required level of screening.
5. All plantings should be situated so that their root systems shall not encroach on underground utilities.
6. The owner of the property whose principal use is required to be screened shall be responsible for the installation and upkeep of his or her living fence. This includes the replacement of dead plant material and the removal of all debris and tall grass.

E. Provisions for Required Non-Living Fences

1. Required non-living fences shall be maintained so that they (1) follow these requirements, and (2) provide a year-round, attractive screen. The owner of the property whose principal use is required to be buffered shall be responsible for the installation and upkeep of his or her fence.
2. Required non-living fences shall be in accordance with the provisions of *Section 510* of this ordinance ("*Fences, Walls, and Other Screens*"), except that (1) they shall ignore the required "maximum solid to open portion ratio," and (2) they may be subject to the provisions of *Subsection "B" of this Section*.
3. Required non-living fences shall be opaque.

F. Provisions for Natural Landscape Buffers:

1. Required natural landscape buffers shall be wide and long enough to hide the use that is required to buffer itself.
2. Required natural landscape buffers shall be delineated and protected from future development by an easement, deed restriction, covenant, or similar restriction.
3. No structure, parking area, loading area, storage area, or vehicular circulation area shall be located in this buffer area.

4. All portions of a landscape buffer shall be attractive and maintained in good condition.

SECTION 530: OFF-STREET PARKING SPACE AND LOADING BERTH DESIGN

A. The Purpose, Organization, and Applicability of this Section: *Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading,"* stipulates how many off-street parking spaces and loading berths must be provided by each land use within Meyersdale. However, simply requiring a number of parking spaces or loading berths is not enough to guarantee adequate access to the Borough's homes, businesses, and institutions. These spaces and berths need to be properly designed. The purpose of *Section 530* is to meet this concern by mandating that each required off-street parking space and loading berth meet certain safety and aesthetics criteria.

Letter "B" of this section provides the design criteria for off-street parking spaces, while *letter "C"* provides the same for off-street loading berths. The requirements of this section apply to each off-street parking space and loading berth within the Borough that is used to satisfy the requirements of *Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading."*

B. Requirements for Off-Street Parking Spaces: Each required off-street parking space shall meet the following standards.

1. **LOCATION:** Required off-street parking spaces shall be located on the same lot as the structure or use that they serve unless a parking plan to the contrary is approved by the Zoning Hearing Board in accordance with *Section 535, "Off-Street Parking and Loading Plans."*
2. **SIZE:** Perpendicular parking spaces shall be no smaller than 9 feet in width by 18 feet in length. Parallel parking spaces shall be no smaller than 8 feet in width by 23 feet in length. Handicapped parking spaces shall be no smaller than 13 feet in width by 20 feet in length. All of these measurements shall exclude curbs and maneuvering space.
3. **DESIGN:** Each parking space shall open directly onto an aisle or driveway with a width of no less than 15 feet. All access ways shall be provided in accordance with the Pennsylvania Department of Transportation and Borough regulations, and shall be designed so that parking patrons may safely exit to and enter from the street.
4. **SURFACING:** With the exception of those that serve residential buildings with no more than two dwellings, all parking areas shall be graded – and either stabilized or paved. Paving may consist of concrete, asphalt, grouted brick, paving blocks, or a similar material.
5. **SCREENING:** Open-space parking areas for 50 automobiles or more shall be interspersed with the landscape or other appropriate land forms in the area.

6. STRIPING: Paved parking areas with more than 15 parking spaces shall be striped to outline each parking space and aisle. A durable paint shall be used, and these stripes shall be maintained properly.
7. LIGHTING: Any artificial lighting used to illuminate off-street parking areas and driveways shall be directed away from residential properties and public streets so as to not interfere with these uses.

C. Requirements for Off-Street Loading Berths: Each required off-street loading berth shall meet the following standards.

1. LOCATION: Required loading berths shall be located on the same lot as the use that they serve. No loading berth shall be located in a front yard. No loading berth shall be situated so that loading or unloading vehicles may project into a traffic lane.
2. SIZE: A required off-street loading berth space shall be no smaller than 14 feet in width by 55 feet in length, exclusive of any curbs, aisles, or maneuvering space. The length may be reduced to 45 feet if the applicant certifies in writing that no tractor-trailer trucks will use the berth. Required loading berths shall have a vertical clearance of at least 16 feet.
3. ACCESS: Each required off-street loading berth shall have an appropriate access and exit that will minimize interference with traffic movement. Such accesses and exits should be encouraged to be via an alley, rear entry, or service street to the rear of the building.
4. SURFACING: All off-street loading berths shall have a compacted gravel base not less than 7 inches thick, and shall be surfaced with an all-weather material.
5. VEHICLE REPAIR AND SERVICING: No motor vehicle repair work shall be performed in an off-street loading berth.
6. PARKING: Loading berths shall not be used to satisfy off-street parking requirements.
7. SCREENING: All required off-street loading berths that are adjacent to a residential district shall be buffered against that district according to the standards of *Article 5, Section 520, "Required Buffers."*

SECTION 535: OFF-STREET PARKING AND LOADING PLANS

A. The Purpose, Organization, and Applicability of this Section: *Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading,"* stipulates how many off-street parking spaces and loading berths each land use within the Borough of Meyersdale must provide. However, simply requiring a number of parking spaces or loading berths ignores many important considerations. Parking and loading requirements should be flexible and responsive to situations involving shared parking, adequate off-lot parking, different transportation modes, and site constraints. Some land uses

should not be held to the requirements of *Section 265* because (1) they share parking spaces with other businesses who need parking at differing times, (2) they use parking spaces on other lots that are nearby, (3) a significant number of their clients walk or ride bicycles to these uses, or (4) existing site constraints prohibit following these requirements. The purpose of *Section 535* is to meet this concern by allowing for reductions in these requirements if they are necessary and justified.

Letter "B" of this section stipulates the conditions under which one or more land uses may obtain an approved parking plan that reduces the off-street parking requirements of *Section 265*. *Letter "C"* stipulates the conditions under which one or more land uses may obtain an approved loading plan that reduces the off-street loading requirements of *Section 265*. Applications for a parking or loading plan shall be made to the Zoning Hearing Board as a special exception -- via the requirements of *Article 3, "Special Exceptions and Conditional Uses."*

This section applies to all land uses regulated by *Section 265* who wish to apply for one of these two types of plans.

B. Off-Street Parking Plans: The Zoning Hearing Board may grant a special exception (via the requirements of *Article 3, "Special Exceptions and Conditional Uses"*) to an off-street parking plan that reduces the number of off-street parking spaces required for a land use by the table in *Section 265, "Land Uses, Off-Street Parking, and Off-Street Loading,"* so long as that plan takes one of the following four forms.

1. Two or more uses may share a common parking area that provides enough parking spaces to meet the requirements of each use individually if the applicants prove that each involved use will require the common parking area largely when the other involved uses will not require it, that each involved use is located within 350 feet of the common parking area, that each involved use is connected to the common parking area by safe pedestrian means of access, and that an adequate guarantee exists that the common parking area will remain available to all of the involved uses over their lifetimes.

This form of a parking agreement shall not be available to shopping centers or residential buildings with more than one dwelling. However, it is especially recommended for places of worship (which usually require parking on weekends and after 5:00 p.m. on weekdays) and non-retail office buildings (which usually require parking between 9:00 a.m. and 5:00 p.m. on weekdays).

Any changes made to the sharing of the common parking area shall require a new review by the Zoning Hearing Board, and may result in an addition of required parking spaces.

2. The Zoning Hearing Board may approve a plan for providing some or all of a land use's required off-street parking spaces on a different lot than that which the use is situated on if (1) an adequate guarantee exists that the parking will remain available to the involved use over its lifetime, and (2) the off-site parking spaces are located within 350 feet of the associated use and are connected by a safe pedestrian walkway.

3. If a land use can prove that over 25% of the traffic that it generates will be pedestrian, the Zoning Hearing Board may approve a plan that proportionately reduces the number of off-street parking spaces required by *Section 265*. Furthermore, if a land use can prove that over 25% of the traffic that it generates will use a bicycle to get there, the Zoning Hearing Board may approve a plan that (1) proportionately reduces the number of off-street parking spaces required by *Section 265*, and (2) provides enough bike rack space to handle the anticipated number of cyclists.
 4. The Zoning Hearing Board may approve an off-street parking plan that reduces the number of off-street parking spaces required for a land use by *Section 265* if the applicant can prove that (1) existing site constraints bar any reasonable attempt to follow this requirement, and (2) the traffic that will be forced to find another place to park will not deny another land use the use of its needed parking spaces.
- C. Off-Street Loading Plans:** The Zoning Hearing Board may grant a special exception (via the requirements of *Article 3, "Special Exceptions and Conditional Uses"*) to a loading plan that reduces the number of off-street loading berths required for a land use by the table in *Section 265* if the applicant can prove that existing site constraints bar any reasonable attempt to follow this requirement.

ARTICLE VI SIGNS

SECTION 600: THE PURPOSES, ORGANIZATION, AND APPLICABILITY OF THIS ARTICLE

The purposes of this article are the following: to encourage the effective use of signs as a means of communication in the Borough of Meyersdale, to maintain and enhance the Borough's aesthetic environment and its ability to attract sources of economic development and growth, to improve pedestrian and traffic safety, to minimize the possible adverse effect of signs on nearby public and private property, and to enable the fair and consistent enforcement of this article's provisions.

Section 605, "Computations," explains how to calculate sign areas, sign heights, and maximum total permitted sign areas for zone lots. These items are used throughout this article, and thus, *Section 605* applies to all regulated signs. *Section 610, "Signs Allowed on Private Property With and Without Permits,"* addresses and exclusively applies to regulated signs on private property: stating what kinds of signs are allowed in each zoning district, when zoning and occupancy permits are needed for a sign, how much total permitted sign area each zone lot may have, how many individual signs each zone lot may have, what dimensions each sign may be, where each sign may be located on its lot, and what characteristics each sign may have.

Section 615, "Design, Construction, and Maintenance," sets design, construction, and maintenance requirements for all regulated signs. *Section 620, "Signs in the Public Right-of-Way,"* addresses and exclusively applies to regulated signs in public right-of-ways: stating what kinds of signs are allowed there, when signs may be forfeited to the Borough, and when occupancy permits are required for signs in this location. *Section 625, "Signs that are Exempt from the Requirements of this Article,"* lists which signs are not regulated by this article. *Section 630, "Prohibited Signs,"* explains what kind of signs are prohibited from the Borough. *Section 635, "Occupancy Permits for Temporary Signs on Private Property,"* provides some rules for temporary signs on private property that *Section 610* requires to have occupancy permits. *Section 640, "Abandoned Signs,"* explains when abandoned signs must be removed.

A nonconforming sign is defined as a sign 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 the requirements of *Section 605 ("Computations")*, *Section 610 ("Signs Allowed on Private Property With and Without Permits")*, *Section 620 ("Signs in the Public Right-of-Way")*, or *Section 630 ("Prohibited Signs")*. *Section 645, "Nonconformities,"* addresses and exclusively applies to nonconforming signs: explaining how they are to receive nonconforming status, how they are to be maintained, how they are to be brought into conformance, and when they must be removed.

Article VI applies to all signs located in the Borough of Meyersdale.

SECTION 605: COMPUTATIONS

- A. How to Compute the Sign Area of Individual Signs:** The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets the provisions of this ordinance and is clearly incidental to the display itself.
- B. How to Compute the Sign Area of Multifaced Signs:** The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.
- C. How to Compute Sign Height:** The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zone lot, whichever is lower.
- D. How to Compute the Maximum Total Permitted Sign Area for a Zone Lot:** The permitted sum of the area of all individual signs on a zone lot shall be computed by applying the formula contained in *Table "B" of Section 610 ("Signs Allowed on Private Property With and Without Permits")* to the lot frontage, building frontage, or wall area, as appropriate, for the zoning district in which the lot is located. Lots fronting on two or more streets are allowed the permitted sign area for each street frontage. However, the total sign area that is oriented toward a particular street may not exceed the portion of the lot's total sign area allocation that is derived from the lot, building, or wall area frontage on that street.

SECTION 610: SIGNS ALLOWED ON PRIVATE PROPERTY WITH AND WITHOUT PERMITS

Signs are allowed on private property in the Borough of Meyersdale in accordance with, and only in accordance with, *Table "A"* below. If the letter "P" appears for a sign type in a column of this table, such a sign is allowed on private property in the zoning district represented by that column without any of the permits mentioned in the paragraph below. If the letter "S" appears for a sign type in a column of this table, such a sign is allowed on private property in the zoning district represented by that column only after the permits required in the paragraph below have been

obtained for the sign. If the letter "N" appears for a sign type in a column of this table, such a sign is not allowed on private property in the zoning district represented by that column.

If *Table "A"* requires a sign of the "temporary" sign type to have permits in a particular zoning district, an occupancy permit must be obtained for that sign before it may be erected. If *Table "A"* requires a sign of any other sign type to have permits in a particular district, a zoning permit must be obtained for that sign before it may be erected, and an occupancy permit must be obtained for that sign immediately after it is erected. *Section 148 ("Zoning Permits")* explains how to obtain a zoning permit, while *Section 151 ("Occupancy Permits")* explains how to get an occupancy permit.

TABLE A: PERMITTED SIGNS ON PRIVATE PROPERTY

Sign Type	R1	R2	R3	C	U	A	RC
FREESTANDING							
Residential ¹⁶	P	P	P	P	N	N	P
Other	N	N	S	S	S	S	S
Incidental ¹⁷	N	N	P	P	P	P	P
BUILDING							
Banner	N	N	N	S	S	S	N
Building Marker ¹⁸	P	P	P	P	P	P	P
Canopy	N	N	S	S	S	S	N
Identification ¹⁹	P	P	P	P	P	P	P
Incidental ²⁰	N	N	P	P	P	P	P
Marquee	N	N	N	P	N	N	N
Projecting	N	N	S	S	S	S	N
Residential ²¹	P	P	P	P	N	P	P
Roof	N	N	N	N	S	S	N
Roof, Integral	N	N	N	N	S	S	N
Suspended	N	N	N	N	S	S	N
Temporary ²²	N	N	S	S	S	S	S
Wall	N	N	N	S	S	S	N

¹⁶No commercial messages are allowed on these signs except for a commercial message drawing attention to an activity legally offered on the premises.

¹⁷No commercial messages of any kind are allowed on these signs unless the involved message is not legible from any location off the involved zone lot.

¹⁸This may include only the building's name, the building's date of construction, or historical data on a historic site. Such signs must be cut or etched into masonry, bronze, or similar material.

¹⁹Only the address and name of the occupant is allowed on such a sign.

²⁰No commercial messages are allowed on these signs if the messages are legible from a location off of the involved zone lot.

²¹No commercial messages are allowed on such a sign except for one that draws attention to an activity legally offered on the premises.

²²A temporary sign on private property may stand for no more than 30 days, and must adhere to the requirements of *Section 635, "Occupancy Permits for Temporary Signs on Private Property."* A temporary sign in a public right of way must have an occupancy permit, may stand for no more than 60 days, and must adhere to the requirements of *Section 620, "Signs in the Public Right-of-Way."*

Sign Type	R1	R2	R3	C	LI	A	R/C
Window	N	N	S	S	S	S	N
MISCELLANEOUS							
Banner ²³	N	N	N	N	S	S	N
Flag ²⁴	P	P	P	P	P	P	P
Portable	N	N	N	N	P	N	N

Any sign designated by an "S" or "P" in Table "A" shall be allowed on private property only if...

- A. the sum of the area of all building and freestanding signs on the zone lot conforms with the maximum permitted sign area as determined by the formula for the zoning district in which the lot is located as specified in Table "B" below;

TABLE B: MAXIMUM TOTAL SIGN AREA PER ZONE LOT

	R1	R2	R3	C	LI	A	R/C
The maximum total area of all signs on a zone lot – except incidental signs, building marker signs, identification signs, and flags ²⁵ shall not exceed the lesser of the following:							
total square feet	9	9	75	100	200	500	50
percentage of the ground floor area of the zone lot's principal building	NA	NA	4%	4%	2%	5%	NA
square feet of signage per linear foot of street frontage	NA	NA	2.0	2.0	NA	NA	.5

- B. the size, location, and number of signs on the lot conform with the requirements of Table "C" and Table "D" below, which establish permitted sign dimensions by sign type;

TABLE C: NUMBER, DIMENSIONS, AND LOCATIONS OF SIGNS

Sign Type	R1	R2	R3	C	LI	A	R/C
Individual signs shall not exceed the applicable maximum number, dimensions, or setbacks shown on this table and on TABLE "D."							
FREESTANDING							
Area (in sq. ft.)	9	9	50	50	200	500	50
Height (in feet)	5	5	12	12	20	20	12

²³No commercial messages are allowed on banners if the messages are legible from a location off of the involved zone lot.

²⁴This category includes the flags of the United States, the states themselves, local governments, foreign nations having diplomatic relations with the United States, institutions, businesses, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction – provided that the involved flag shall not exceed 60 square feet in area and shall not be flown from a pole that is more than 40 feet tall. Any flag that does not meet these requirements shall be considered a banner sign by this ordinance.

²⁵This category includes the flags of the United States, the states themselves, local governments, foreign nations having diplomatic relations with the United States, institutions, businesses, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction – provided that the involved flag shall not exceed 60 square feet in area and shall not be flown from a pole that is more than 40 feet tall. Any flag that does not meet these requirements shall be considered a banner sign by this ordinance.

Sign Type	R1	R2	R3	C	L	A	R/C
Setback (in feet) from all lot lines ²⁶	2	2	5	5	10	10	5
Number permitted per zone lot per foot of street frontage ²⁷	1 per 20	1 per 20	1 per 15	1 per 15	1 per 15	1 per 20	1 per 20
BUILDING							
Area (max. sq. ft.)	2	2	NA	NA	NA	NA	10
Wall area (percent) ²⁸	NA	NA	10%	10%	5%	5%	NA

TABLE D: NUMBER AND DIMENSIONS OF CERTAIN INDIVIDUAL SIGNS BY SIGN TYPE

Sign Type	Number Allowed	Maximum Sign Area	Vertical Clearance from Sidewalk, Private Drive, or Parking	Vertical Clearance from Public Street
No sign shall exceed any applicable maximum numbers or dimensions shown on this table. Likewise, no sign shall encroach on any applicable minimum clearances shown on this table.				
FREESTANDING				
Residential, Other, and Incidental	see Table "C"	see Table "C"	NA	NA
BUILDING				
Banner	NA	NA	9 ft.	12 ft.
Building Marker	1 per building	4 sq. ft.	NA	NA
Canopy	1 per building	25% of the canopy's vertical surface	9 ft.	12 ft.
Identification	1 per building	NA	NA	NA
Incidental	NA	NA	NA	NA
Marquee	1 per building	NA	9 ft.	12 ft.
Projecting	1 per building	40 sq. ft.	9 ft.	12 ft.
Residential	see Table "C"	NA	NA	NA
Roof	1 per principal building	NA	NA	NA
Roof, Integral	2 per principal building	NA	NA	NA
Suspended	1 per entrance	NA	9 ft.	NA
Temporary	see Section 635	NA	NA	NA
Wall	NA	NA	NA	NA

²⁶In addition to the setback requirements of this table, no sign shall be located closer than 20 feet to an intersection between public and/or private roads and/or driveways unless that sign allows a clear view between the intersecting roads and/or driveways at all heights between 3 and 10 feet.

²⁷Lots fronting on two or more streets are allowed the permitted signage for each street frontage. However, this signage cannot be accumulated and used on one street in excess of that allowed for lots with only one street frontage.

²⁸The percentage figure here shall be interpreted as a maximum percentage of the area of the wall of which such a sign is a part or to which each sign is most nearly parallel.

Sign Type	Number Allowed	Maximum Sign Area	Vertical Clearance from Sidewalk, Private Drive, or Parking	Vertical Clearance from Public Street
Window	NA	25% of the window's total area	NA	NA
MISCELLANEOUS				
Banner	NA	NA	9 ft.	12 ft.
Flag	NA	60 sq. ft.	9 ft.	12 ft.
Portable	1 where allowed	20 sq. ft.	NA	NA

C. the size location, and number of signs on the lot conform with any additional limitations listed in *Table "A"* above; and

D. the characteristics of the sign conform with the limitations of *Table "E"* below, and with any additional limitations listed in *Table "A."*

TABLE E: PERMITTED SIGN CHARACTERISTICS BY DISTRICT

Sign Type	R1	R2	R3	C	A	RIC
In this table, "P" signifies that the characteristic is allowed in the column's zoning district, while "N" signifies that the characteristic is not allowed.						
Animation	N	N	N	P	N	N
Changeable Copy	N	N	N	P	N	P
Internal Illumination	N	N	P	P	P	P
External Illumination	N	N	P	P	P	P
Exposed Bulbs or Neon Illumination	N	N	N	P	N	N

All permitted signs must follow the requirements of *Section 615, "Design, Construction, and Maintenance."*

SECTION 615: DESIGN, CONSTRUCTION, AND MAINTENANCE

Except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the ground; a building, or another structure by direct attachment to a rigid wall, frame, or other structural element. Furthermore, all signs shall be maintained in good structural condition, in compliance with all applicable building and electrical codes.

A sign that conforms with the requirements of *Section 605 ("Computations")*, *Section 610 ("Signs Allowed on Private Property With and Without Permits")*, *Section 620 ("Signs in the Public Right-of-Way")*, and *Section 630 ("Prohibited Signs")* may be (1) repaired, (2) repainted, (3) removed for repair and then re-mounted, or (4) replaced with an identical sign without any permits. Note that this ordinance considers replacing a sign with a non-identical sign to be the same as erecting a new sign. Thus, such a replacement may or may not require a zoning and/or an occupancy permit, depending on the type and location of the involved sign.

SECTION 620: SIGNS IN THE PUBLIC RIGHT-OF-WAY

A. Sign Types Allowed in Public Right-of-Ways:

1. The following kinds of permanent signs are allowed in public right-of-ways: (1) public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and/or direct or regulate pedestrian or vehicular traffic; (2) bus stop signs erected by a public transit company; (3) informational signs of a public utility regarding its poles, lines, pipes, or other facilities; and (4) awning, projecting, and suspended signs projecting over a public right-of-way in conformity with the requirements of *Table "A."*
2. Temporary signs for which an occupancy permit has been issued according to the requirements of *letter "C"* below are allowed in public right-of-ways only if they contain no commercial messages and are no more than two square feet in area.
3. Emergency warning signs are allowed in public right-of-ways if they are erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way.

B. Forfeiture of Signs Located in Public Right-of-Ways: Any sign installed or placed on public property, except in conformance with the requirements of this article, shall be forfeited to the Borough and subject to confiscation. The Borough shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of the sign.

C. Occupancy Permits for Temporary Signs in the Public Right-of-Way: All temporary signs that are to be located in the public right-of-way must obtain an occupancy permit via the requirements of *Section 151, "Occupancy Permits."* These permits shall be issued for such signs in accordance with the provisions below.

1. An occupancy permit issued for a temporary sign in a public right-of-way shall be valid for 60 days, after which the sign must be removed. No more than three permits for temporary signs shall be issued to an applicant in any calendar year. For any sign containing the name of a political candidate, the candidate shall be deemed to be the applicant.
2. Up to 20 identical temporary signs may be erected in a public right-of-way under a single occupancy permit.
3. In addition to any fees for the involved occupancy permit, the applicant shall post a bond of \$25 for each permitted temporary sign in a public right-of-way. This bond shall be held to ensure the removal of the sign, and shall be refundable upon its removal. The bond on any such sign that is not removed within 75 days of the issuance of the involved occupancy permit shall be forfeited to the Borough, and shall be used to recover the costs of removing and disposing of the sign.

SECTION 625: SIGNS THAT ARE EXEMPT FROM THE REQUIREMENTS OF THIS ARTICLE

The following kinds of signs are exempt from the requirements of this article:

- A. any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance;
- B. any sign that is inside a building, not attached to a window or door, or not legible from a distance of more than 3 feet beyond the lot line of the involved zone lot or parcel;
- C. works of art that do not include a commercial message;
- D. signs on the scoreboard or outfield fence of an athletic field;
- E. holiday lights and decorations with no commercial message; and
- F. traffic control signs on private property, such as "STOP," "YIELD," and similar signs, the face of which meet the Pennsylvania Department of Transportation standards and which contain no commercial message of any sort.

SECTION 630: PROHIBITED SIGNS

All signs that are not expressly permitted under this ordinance or exempted from its regulations by *Section 625 ("Signs that are Exempt from the Requirements of this Article")* are prohibited from the Borough of Meyersdale. Such signs include, but are not limited to beacons, pennants, strings of lights that are not permanently mounted to a rigid background (except those exempted under *Section 625*) inflatable signs, and tethered balloons.

SECTION 635: OCCUPANCY PERMITS FOR TEMPORARY SIGNS ON PRIVATE PROPERTY

Where *Table "A" of Section 610 ("Signs Allowed on Private Property With and Without Permits")* requires occupancy permits to be obtained for temporary signs on private property, these permits shall be obtained in accordance with the provisions below.

- A. **Terms:** An occupancy permit for a temporary sign on private property shall be valid for 30 days, after which the sign must be removed.
- B. **The Maximum Number of Occupancy Permits for Temporary Signs:** Only three occupancy permits for temporary signs on private property shall be issued to the same applicant on the same zone lot in any calendar year.
- C. **The Requirements of Section 610:** All temporary signs on private property are subject to the requirements of *Section 610, "Signs Allowed on Private Property With and Without Permits."*

SECTION 640: ABANDONED SIGNS

If a conforming use has been discontinued for a total of 12 months within an 18 month period, then all signs that are related to that use – as well as any structures that support these signs – shall be known as "abandoned signs." Likewise, if a nonconforming use has been abandoned as

described in *Section 154 ("Nonconformities," letter "D," number "4")*, then all signs that are related to that use -- as well as any structures that support these signs -- shall be known as "abandoned signs." All abandoned signs shall be removed at the expense of their owners. If such a sign is not removed, the Zoning Officer shall enforce the requirements of this section via the procedure given in *Section 160, "Enforcement."*

SECTION 645: NONCONFORMING SIGNS

- A. Applicability:** The requirements of this section only apply to nonconforming signs. A nonconforming sign is defined as a sign 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 the requirements of *Section 605 ("Computations")*, *Section 610 ("Signs Allowed on Private Property With and Without Permits")*, *Section 620 ("Signs in the Public Right-of-Way")*, or *Section 630 ("Prohibited Signs")*. Because nonconforming signs are not illegal, they have a right to temporarily remain in place and to be maintained. However, they must adhere to the requirements of this section.
- B. Phasing Out Nonconforming Signs:** So long as it does not threaten the public health or welfare, a nonconforming sign may temporarily maintain its nonconforming characteristic or characteristics. However, all nonconforming signs that are not temporary shall be brought into conformance with the requirements of *Sections 605, 610, 620, and 630* within 10 years of the effective date of this ordinance's enactment (see *Section 118, "The Effective Date of This Ordinance's Enactment"*). All nonconforming temporary signs shall be brought into conformance with the requirements of *Sections 605, 610, 620, and 630* within 60 days of the effective date of this ordinance's enactment (see *Section 118, "The Effective Date of This Ordinance's Enactment"*).
- C. Nonconforming Status:** The following rules apply to or concern all nonconforming signs.
1. The Zoning Officer shall keep and maintain a list of all nonconforming signs 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 relevant amendments to either this ordinance or its map.
 2. The owner of a nonconforming sign may obtain a "certificate of nonconformity" from the Borough's Zoning Officer. This certificate shall state that the sign may continue to be used until a date that is 60 days from the effective date of this ordinance's enactment (see *Section 118*) in the case of temporary signs, or a date that is 10 years from the effective date of this ordinance's enactment in the case of non-temporary signs.
 3. Aggrieved parties and the involved landowner may both appeal the Zoning Officer's determination of whether or not a sign is nonconforming according to the rules of *Section 169, "Appealing the Determination of a Municipal Officer."*

4. Any sign that was illegally erected or painted under a previous zoning ordinance or land use regulation shall remain illegal under this ordinance, even if it conforms to this ordinance's regulations.
5. Any sign that becomes a nonconforming sign due to an amendment made after the effective date of this ordinance's enactment shall be subject to the regulations of this section.

D. Maintaining Nonconforming Signs: The following rules apply to all nonconforming signs.

1. If any nonconforming sign deteriorates to an unsightly or hazardous condition, the owner of that sign shall repair, repaint, remove, or replace it. If the Borough Zoning Officer finds that a such a sign has not been repaired, repainted, removed, or replaced; he or she shall enforce this requirement via the procedures given in *Section 160, "Enforcement."*
2. A nonconforming sign may be (1) repaired, (2) repainted, or (3) removed for repair and then re-mounted without obtaining any zoning or occupancy permits.

E. Replacing Nonconforming Signs:

1. Within the periods established under *letter "B"* above, a nonconforming sign may be replaced with an identical nonconforming sign if the use that the sign relates to (1) has not changed since the original sign was constructed or painted, and (2) has not been discontinued for a total of 12 months within an 18 month period or abandoned as described in *Section 154 ("Nonconformities"), letter "D," number "4."* Otherwise, the nonconforming sign may only be replaced with a new, conforming sign.
2. Replacing a temporary nonconforming sign with an identical temporary nonconforming sign does not require any permits. However, replacing a non-temporary, nonconforming sign with an identical non-temporary, nonconforming sign requires both a zoning permit and an occupancy permit. *Section 148 ("Zoning Permits")* explains how to obtain a zoning permit, while *Section 151 ("Occupancy Permits")* explains how to get an occupancy permit. Note that this ordinance considers replacing a nonconforming sign with a non-identical sign to be the same as erecting a new sign. Thus, such a replacement may or may not require a zoning and/or an occupancy permit, depending on the type and location of the involved sign.

F. Enlarging, Relocating, or Altering Nonconforming Signs:

1. A nonconforming sign shall not be enlarged or relocated within the Borough.
2. A nonconforming sign shall not be altered in any aspect except (1) to make safety improvements, (2) to keep the sign maintained in accordance with the requirements of this section or other Borough ordinances, or (3) to bring the sign into conformance with the requirements of this ordinance.

G. Bringing a Nonconforming Sign into Conformance: If a nonconforming sign is altered so that it becomes a conforming sign, it shall not be subsequently altered back to a nonconforming state. Likewise, if a nonconforming sign is replaced with a conforming sign, that conforming sign shall not be subsequently replaced with another nonconforming sign.

H. Abandoned Nonconforming Signs: If a conforming use has been discontinued for a total of 12 months within an 18 month period, then all nonconforming signs that are related to that use -- as well as any structures that support these signs -- shall be known as "abandoned nonconforming signs." Likewise, if a nonconforming use has been abandoned as described in *Section 154 ("Nonconformities"), letter "D," number "4,"* then all nonconforming signs that are related to that use -- as well as any structures that support these signs -- shall be known as "abandoned nonconforming signs." All abandoned nonconforming signs shall be removed at the expense of their owners. If such a sign is not removed, the Zoning Officer shall enforce this requirement via the procedures given in *Section 160, "Enforcement."*

ARTICLE VI ADMINISTRATION

SECTION 700: THE ZONING OFFICER

A. The Purposes, Organization, and Applicability of this Section: The Zoning Officer is an appointed officer of the Borough of Meyersdale. As such, he or she is a non-elected member of the Borough's executive branch. The Zoning Officer is this ordinance's chief administrative official, and thus, is key to the success of this ordinance in meeting its goals.

Letter "B" of this section notes how the Zoning Officer should be appointed by Borough Council, *Letter "C"* explains his or her powers under this ordinance, and *Letter "D"* discusses his or her ability to conduct inspections. *Letter "E"* lists the duties of the Zoning Officer.

The provisions of *Section 700* only apply to the Zoning Officer and the parties with which he or she comes into contact. Like the other sections of *Article 7*, these provisions do not apply to the property owners regulated by this ordinance unless a section of *Article 1* or *Article 2* says so.

B. The Appointment of the Zoning Officer: A Zoning Officer shall be appointed by Borough Council to administer this ordinance. This officer shall:

1. not hold any elected offices within the Borough of Meyersdale,
2. meet qualifications established by the Borough,
3. be able to demonstrate to the satisfaction of the Borough Council a working knowledge of municipal zoning, and
4. be familiar with both this ordinance and the comprehensive plan.

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

D. Inspections: In fulfilling the duties listed under *letter "E"* below, the Zoning Officer is hereby authorized to enter and inspect any building, structure, premises, property, or development in the Borough at any reasonable hour upon presentation of proper credentials. If entry is refused, the Zoning Officer shall notify the Borough Solicitor.

E. The Duties of the Zoning Officer: The Zoning Officer's duties are as follows.

1. The Zoning Officer shall receive, process, file copies of, and make decisions on all applications for zoning permits as required by *Section 148*, "Zoning

Permits. Where such a permit is denied, the Zoning Officer shall inform the applicant, in writing, of the basis for this denial.

2. The Zoning Officer shall receive, process, file copies of, and make decisions on all applications for occupancy permits as required by *Section 151, "Occupancy Permits."* Where such a permit is denied, the Zoning Officer shall inform the applicant, in writing, of the basis for this denial.
3. The Zoning Officer shall receive, process, file copies of, and make decisions on all requests for preliminary opinions as required by *Section 175, "Preliminary Opinions."* The Zoning Officer shall inform the applicant, in writing, of his or her decision and the basis thereof.
4. The Zoning Officer shall grant a certificate of nonconformity to the owner of a nonconforming structure, building, sign, lot, or land use (1) when the owner requests such a certificate, and (2) if his or her property is found to be nonconforming (as opposed to conforming or illegal) (see *Section 154, "Nonconformities"*). Where such a certificate is denied, the Zoning Officer shall inform the applicant, in writing, of the basis for this denial.
5. The Zoning Officer shall make and maintain a list of all nonconforming structures, buildings, signs, lots, and land uses within the Borough, as required by *Section 154, "Nonconformities."*
6. The Zoning Officer shall maintain the "Official Zoning Map of the Borough of Meyersdale" as requested by *Section 210, "Establishment of the Official Zoning Map."*
7. The Zoning Officer shall receive, process, file copies of, forward, and schedule hearings for all applications for variances before the Zoning Hearing Board – including applications for variances (see *Section 157, "Variances"*), expanding a nonconforming land use (see *Section 154, "Nonconformities"*), changing one nonconforming use to another (see *Section 154, "Nonconformities"*), challenges to the procedural validity of this ordinance that are to be heard by the Board (see *Section 163, "Procedural Challenges"*), challenges to the substantive validity of a provision of this ordinance that are to be heard by the Board (see *Section 166, "Substantive Challenges"*), special exceptions (see *Article 3, "Special Exceptions and Conditional Uses"*), challenges to the determination of a municipal officer (see *Section 169, "Appealing the Determination of a Municipal Officer"*), and challenges to the Zoning Officer's preliminary opinions (see *Section 175, "Preliminary Opinions"*).
8. In all Zoning Hearing Board hearings, the Zoning Officer shall provide all involved parties with copies of the items sent to the Board, advertise the hearing as required by the public notice provisions of *Section 705 ("The Zoning Hearing Board")*, and represent the Borough of Meyersdale as a party to the hearing. The Zoning Officer should not prepare the Board's decisions, as this would be a conflict of interest.
9. The Zoning Officer shall receive, process, file copies of, forward, and schedule

hearings for all applications for zoning-related hearings before the Borough Council – including applications for conditional uses (see *Article 3, "Special Exceptions and Conditional Uses"*), landowner curative amendments (see *Section 166, "Substantive Challenges"*), and temporary uses (see *Article 4, "Temporary Uses"*);

10. In all zoning-related Borough Council hearings, the Zoning Officer shall provide all involved parties with copies of the items sent to the Council, and advertise the hearing as required by the public notice provisions of *Section 710 ("The Borough Council")*.
11. The Zoning Officer shall collect all zoning-related fees required by this or any other pertinent ordinance.
12. The Zoning Officer shall properly maintain all filings required by this section.
13. The Zoning Officer shall interpret this ordinance in accordance with *Section 121, "Interpreting the Language of This Ordinance."*
14. The Zoning Officer shall send enforcement notices to what he or she deems to be violators of this ordinance as specified in *Section 160, "Enforcement."* Such notices should be sent via certified mail, sent return receipt requested, or personally served to provide proof that the notice was received.
15. The Zoning Officer shall receive, process, file copies of, and make decisions on all applications for home occupations as required by *Section 505, "Home Occupations."* The Zoning Officer shall provide, in writing, the basis for these decisions.
16. The Zoning Officer shall determine the adequacy of any buffering required by this ordinance and require more buffering when necessary according to the requirements of *Section 520, "Required Buffering."*
17. The Zoning Officer shall perform all other duties prescribed for him or her by this or any other pertinent ordinance.

SECTION 705: THE ZONING HEARING BOARD

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

Letter "B" of this section explains how the Board is to be established, while *letter "C"* details how its members may be removed. *Letter "D"* explains how the Board is to be organized and provides some guidance concerning how it is to operate. *Letter "E"* discusses how the Board may spend money. *Letter "F"* lists the duties of the

Board, and provides some rules on how these duties are to be carried out. *Letter "G"* notes that the Board's decisions may be appealed to the relevant court of common pleas.

The Zoning Hearing Board must use the same procedure in each of its hearings -- regardless of which one of its duties from *letter "F"* that hearing falls under. Throughout this ordinance, provisions that concern the Zoning Hearing Board have remarked that it is to hear the involved case "via the procedure outlined in *Section 705.*" This procedure is provided in a multi-page table under *letter "H."*

The provisions of *Section 705* only apply to the Zoning Hearing Board and the parties with which it comes into contact. Like the other sections of *Article 7*, these provisions do not apply to the property owners regulated by this ordinance unless a section of *Article 1* or *Article 2* says so.

B. The Formation of the Zoning Hearing Board: The Zoning Hearing Board of the Borough of Meyersdale shall consist of three residents of the Borough, appointed by Borough Council via a resolution. Each member's term of office shall be three years, and shall be fixed so that the term of one member shall expire each year. Members of the Zoning Hearing Board shall hold no other office in the municipality.

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

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

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

For the conduct of any hearing and the taking of any action or votes, a quorum shall be no less than a majority of all of the members of the Board. However, the Board may appoint a **hearing officer** from its own membership to conduct any hearing on its behalf. As noted under *letter "H"* below, the applicant/appellant and the Borough may agree to accept the decision or findings of the Hearing Officer as final, and to relieve the Board of voting on any final decisions.

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

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

The Board may make, alter, and rescind rules and forms for its procedure, consistent with the requirements of this ordinance and the laws of the Commonwealth of Pennsylvania. The Board shall keep full public records of its business²⁹, and shall submit a report of its activities to Borough Council if requested.

E. Expenditures for Services: Within the limits of funds available, the Board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties, as fixed by the Borough Council, but this compensation may not exceed the Borough Council's own compensation. Alternates may also be paid compensation, as fixed by the Borough Council, when they are designated as voting alternative members of the Board. However, their compensation may also not exceed the compensation paid to members of Borough Council.

F. The Duties of the Zoning Hearing Board: The Board's duties shall be as follows. All hearings conducted in pursuit of these duties shall be held according to the rules of letter "H" below.

1. The Board shall hear substantive challenges to the validity of this ordinance and its amendments in accordance with *Section 166, "Substantive Challenges."*

a. Based on the testimony presented at the hearing or hearings, the Board shall determine whether the challenged ordinance, ordinance provision, or map is defective as alleged by the applicant. If the challenge is found to have merit, then the final decision of the Board shall include recommended amendments to the challenged ordinance which will cure the involved defects.

b. In reaching its decision on a substantive challenge to validity of this ordinance or its amendments, the Board shall consider:

(1) the impact of the proposal on roads, sewer facilities, water supplies, schools, and other public service facilities;

(2) if the proposal is for a residential use, the impact of the proposal on regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise

²⁹Such records shall be the property of the Borough.

unlawfully excluded by the challenged provisions of the ordinance or map;

- (3) the suitability of the site for the intensity of use proposed, considering the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources, and other natural features;
- (4) the impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources, and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development, and any adverse environmental impacts; and
- (5) the impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

c. The challenge shall be deemed to be denied if the Board (1) votes against the challenge, (2) fails to commence the hearing within 60 days, or (3) fails to act on the application within 45 days of the close of the last involved hearing. In the latter two of these cases, the involved time limit may be extended by mutual consent of the applicant and the municipality. If no such consent is reached, the challenge shall be denied on the day after the last day that the Board could have taken the involved action.

- 2. The Board shall hear procedural challenges to the validity of this ordinance or one of its amendments in accordance with *Section 163, "Procedural Challenges."*
- 3. The Board shall hear appeals from the zoning-related determinations of any municipal officer – including the zoning officer – in accordance with *Section 169, "Appealing the Determination of a Municipal Officer."*
- 4. The Board shall hear appeals from the determinations of the municipal engineer or the Zoning Officer with reference to any floodplain provisions of any land use ordinance.
- 5. The Board shall hear appeals to the Zoning Officer's preliminary opinions (see *Section 175, "Preliminary Opinions"*).
- 6. The Board shall hear applications for variances in accordance with *Section 157, "Variances."*
- 7. The Board shall hear applications for special exceptions in accordance with *Article 3, "Special Exceptions and Conditional Uses."* In granting a special exception, the Board may attach any reasonable conditions and safeguards as it may deem necessary to implement the purposes of this ordinance.

8. The Board shall hear applications to expand a nonconforming land use or to change one nonconforming land use to another in accordance with *Section 154, "Nonconformities."*
9. For land uses not listed in the table under *Section 265 ("Land Uses, Off-Street Parking, and Off-Street Loading")*, letter "D," the Zoning Hearing Board shall determine (1) which zoning districts they shall be allowed in, (2) how they shall be allowed in those districts (i.e., as permitted principal uses, permitted accessory uses, conditional uses, etc...), and (3) which sections of the remainder of the ordinance apply to them. The Board may ask the Planning Committee for a recommendation on these matters.
10. The Board shall hear all other applications and appeals that are assigned to it by this ordinance or the laws of the Commonwealth of Pennsylvania.

G. Appeals from the Decisions of the Zoning Hearing Board: All decisions rendered by the Zoning Hearing Board may be appealed to the court of common pleas of the judicial district where the involved land is located, so long as these appeals are filed no more than 30 days after the Board renders its decision.

H. The Procedure to be Used by the Zoning Hearing Board: In fulfilling its duties listed under letter "F" above, the Board shall follow the rules and procedures specified for it by the table.

SUBJECT	RULES
Time Limitations	<ul style="list-style-type: none"> ■ Each hearing that is to be held shall begin within 60 days of the date that the request for that hearing was filed. ■ The Zoning Hearing Board or the Hearing Officer (as the case may be) shall render a written decision or (when no decision is called for) make written findings on the application within 45 days of the end of the hearing. ■ If the hearing is conducted by a hearing officer (see letter "D" above), and there has been no stipulation that his or her decisions or findings are final, the Zoning Hearing Board shall make his or her report and recommendations available to all of the involved parties within 45 days of the end of the hearing. The parties are then entitled to make written responses to this report. The Zoning Hearing Board shall make a final decision after reading these responses, but no later than 30 days after the Hearing Officer's report is issued. ■ Where the Zoning Hearing Board fails to render this decision within the required period, or where the Board fails to hold the hearing within the required period, the decision shall be deemed to have been rendered in favor of the applicant or appellant (as the case may be) – unless either (1) the applicant/appellant has agreed in writing or on the record to an extension of time, or (2) the hearing concerns a challenge to the substantive validity of the ordinance³⁰ (see <i>Section 166, "Substantive Challenges"</i>). When a deemed decision is rendered, the Board shall give notice of this – within 10 days of the last day that it could have met to render a decision – to the parties and at the locations listed under "Required Public Notice" below. If the Board fails to provide such notice, the applicant/appellant may do so. Note that protesting or aggrieved parties cannot obtain a deemed decision.

³⁰Where the Zoning Hearing Board fails to commence a hearing on the substantive validity of the ordinance within 60 days of the involved request, or where the Board fails to act on such a hearing within 45 days of its closure, the challenge shall be deemed to be denied.

SUBJECT	RULES
Required Public Notice	<ul style="list-style-type: none"> ■ A notice containing the information listed under "Contents of Required Public Notice" below shall be published once each week for two successive weeks in a newspaper of general circulation in the Borough. The first of these publications shall not be more than 30 days before the date of the hearing, and the second shall not be less than 7 days before the date of the hearing. ■ Written notice shall be mailed to (1) the applicant, (2) the Zoning Officer, (3) any other party that Borough Council has designated by ordinance, and (4) any party that has requested such notice. The timing and manner of this notice shall follow rules adopted by the Zoning Hearing Board. ■ Written notice shall be conspicuously posted on the involved tract of land at least one week prior to the hearing.
Contents of the Required Public Notice	<ul style="list-style-type: none"> ■ The notice shall state that the Zoning Hearing Board of the Borough of Meyersdale will hold a public hearing on the appropriate date, at the proper time, and at the pertinent location. ■ The purpose of the hearing and the particular issue or issues that will be discussed there shall be summarized. ■ The name of the applicant or appellant (as the case may be) shall be given, as well as a brief summary of his or her proposal or appeal. ■ The location or locations of the involved property or properties shall be provided. ■ Any applicable sections of the ordinance shall be cited. ■ If the involved hearing involves a substantive challenge to the validity of this ordinance or one of its amendments, then the notice shall state that the validity of the ordinance is being questioned and note where the public may examine a copy of the challenge – including any plans, explanatory materials, or proposed amendments. ■ The following statement shall be included: "All persons having an interest in these matters are encouraged to attend this meeting. Persons with a disability who wish to attend this hearing and require an auxiliary aid, service, or other disability accommodation to participate in the proceedings can be accommodated by contacting the Borough Manager's Office." ■ The date of the publication shall be given.
Stays of Proceedings	<ul style="list-style-type: none"> ■ An appeal to the Zoning Hearing Board automatically stops all affected land development. However, if the Zoning Officer certifies that such a halt would cause an imminent danger to life or property, then the development may be stopped only with a restraining order granted by the Zoning Hearing Board or by any court with competent jurisdiction – following notice to the Zoning Officer. ■ An applicant or appellant may petition a court of competent jurisdiction to force those contesting an authorized permit or approval to either post bond or drop their appeal. The burden of proof shall be on the applicant/appellant to prove that the appeal is frivolous. If the party contesting an authorized permit or approval refuses to post bond as ordered by the involved court, appeals to an appellate court, and loses, then that party is liable for all reasonable costs, expenses, and attorney fees incurred by the applicant/appellant.
Parties in the Hearing	<ul style="list-style-type: none"> ■ The parties to the hearing shall be (1) the Borough, (2) any person affected by the application or appeal who has made timely appearance of record before the Board, and (3) any other person – including civic or community organizations – permitted to appear by the Board. The Board may require that everyone who wishes to be considered a party to a hearing fill out a form that asks (1) the person's name and address, (2) who he or she is representing, and (3) whether or not he or she desires a copy of any final decision in the case.

SUBJECT	RULES
Fees	<ul style="list-style-type: none"> ■ The Borough Council may prescribe reasonable fees for a Zoning Hearing Board hearing which may include (1) compensation for the secretary and members of the Board, (2) public notice and advertising costs, (3) necessary administrative overhead connected with the hearing, and (4) one-half of the stenographer's fee (the other half must be paid by the Board). ■ The cost of the original transcript shall be paid by the Board if the original is ordered by the Board or the Hearing Officer, and shall be paid by the applicant/appellant if he or she orders it. Additional copies shall be paid for by the parties requesting them. ■ Fees may not compensate for the legal expenses of the Board. Furthermore, fees may not be used to compensate engineering, architectural, planning, or other technical consultants or expert witnesses.
The Zoning Hearing Board's Solicitor	<ul style="list-style-type: none"> ■ The Zoning Hearing Board may hire its own solicitor. ■ The Zoning Hearing Board's solicitor shall be a different person, and shall be from a different law firm, than the Borough's Solicitor.
Conducting the Hearing	<ul style="list-style-type: none"> ■ Either the Zoning Hearing Board or a Hearing Officer (see <i>letter "D"</i> above) shall conduct all hearings. ■ A stenographic record that conforms with civil trial transcripts must be taken in all hearings. Furthermore, written minutes shall be taken of all Board meetings. The substance of all official actions, the names of people who appear officially, and the subject of their testimony must be recorded. ■ Each party has the right to be represented by counsel, to present and respond to evidence, and to cross-examine adverse witnesses on all relevant issues. ■ The chairman of the Zoning Hearing Board (if a Hearing Officer has not been appointed) or the Hearing Officer (if one has been appointed, see <i>letter "D"</i> above) has the power to administer oaths and issue subpoenas to compel both the attendance of relevant witnesses and the production of relevant papers. All testimony should be sworn, as unsworn statements do not constitute legal evidence to make a record. ■ Formal rules of evidence do not apply to hearings. However, the Zoning Hearing Board may exclude any irrelevant, immaterial, or unduly repetitious evidence. Hearsay evidence, if not objected to, may be given its natural probative value. Yet, the Board has the power to reject even uncontradicted testimony if it finds this testimony to be lacking in credibility. ■ In the time following the beginning of a hearing and prior to a rendering of the decision or findings, the Board shall not communicate with any party or party representatives unless all parties are given an opportunity to participate. No communication, reports, staff memoranda, or other materials -- except advice from the Board's own solicitor -- may be accepted or noticed by the Board unless all parties are given an opportunity to contest that information. The Board should not inspect the involved site or its surroundings during the hearings unless all parties are given an opportunity to be present. Any reports by the Zoning Officer shall be filed with all involved parties. ■ A case should not be postponed to a later date without substantial or compelling reasons, especially if the issue is of great concern and has attracted an audience. However, where (1) a new issue is raised for the first time at a hearing, and (2) the applicant/appellant had no notice of this issue, the hearing should be continued at a later date to give the applicant/appellant an opportunity to react properly. When a case is continued at a second hearing, a notice shall be prominently posted at the hearing site, and all involved parties must be notified.

SUBJECT	RULES
Mediation	<ul style="list-style-type: none"> ■ Mediation is "a voluntary negotiating process in which parties in a dispute mutually select a neutral mediator to assist them in jointly exploring and settling their differences, culminating in a written agreement which the parties themselves create and consider acceptable" (from <i>The Pennsylvania Municipalities Planning Code</i>). Mediation is intended to supplement, but not replace, the procedures for Zoning Hearing Board hearings specified here. It can provide a potentially less costly mechanism for resolving land use disputes, as well as a less polarized process. ■ In no case may the Zoning Hearing Board initiate mediation or participate as a mediating party. ■ Participation in mediation must be voluntary, and the involved parties must agree to (1) funding, (2) the selection of a mediator, (3) the completion of mediation (including the time limits for such a completion), (4) the suspension of the time limits authorized by this ordinance and <i>the Pennsylvania Municipalities Planning Code (Act of 1968, P.L. 805, No. 247, as reenacted and amended)</i>³¹, (5) the identification of all parties, (6) the determination of whether some or all sessions shall be open or closed, and (7) the issuance of mediation solutions in writing, subject to review and approval by the decision making body. ■ No offers or statements made in the mediation sessions, excluding the final written mediated agreement, can be admissible as evidence in any subsequent judicial or administrative proceedings.
Making a Decision	<ul style="list-style-type: none"> ■ The decision or, where no decision is called for, the findings shall be made by the Zoning Hearing Board. However, the applicant/appellant and the Borough may agree before this decision to waive this and instead accept the decision or findings of the Hearing Officer as final (if a Hearing Officer has been appointed). ■ In voting on a final decision, the vote cast by each member of the Board (or the Hearing Officer, where appropriate) shall be made publicly. ■ Where an application or appeal is contested or denied, the resulting decision must be accompanied by a finding of fact, the conclusions based on these facts, and the reason that such conclusions were drawn. This will show that the decision was reasoned, and not arbitrary. References to any provisions of any ordinance, rule, or regulation relied on for any conclusion must be made, along with the reason that the conclusion is appropriate for the particular case at hand. ■ Even where an application or appeal is not contested, the resulting decision should be accompanied by a statement of findings or an opinion that is detailed enough to substantiate the Zoning Hearing Board's decision. ■ A copy of the final decision, or where no decision is called for, the findings must be delivered or mailed to the applicant/appellant no later than the day after the date of the report. ■ All other parties to the hearing, as well as all of the parties that are listed under "Required Public Notice" above, shall be sent a brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

³¹The suspension of these time limits must be agreed to in writing by the involved parties, and by both the applicant/appellant and the municipality (not the Zoning Hearing Board) – even if neither one of these two is a party to the mediation.

SECTION 710: THE BOROUGH COUNCIL

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

Letter "B" of this section lists Council's major duties under this ordinance and specifies some rules that apply to each. *Letter "B" number "1"* addresses the appointment of the Zoning Officer, *number "2"* discusses the granting of temporary uses (see *Article 4, "Temporary Uses"*), and *number "3"* deals with the granting of conditional uses (see *Article 3, "Special Exceptions and Conditional Uses"*). *Number "4"* specifies the process by which Council may amend this ordinance, while *number "5"* explains how Council is to hear and decide on landowner curative amendments to this ordinance (see *Section 166, "Substantive Challenges"*). *Number "6"* discusses the setting of off-street parking space and loading berth requirements.

Letter "B" number "7" explains the procedure for municipal curative amendments. A municipal curative amendment can be used to fix a portion of this ordinance that is substantially invalid. It has a major advantage over fixing invalid provisions via a plain amendment (i.e., the procedure described in *letter "B" number "4"*) in that the Borough need not entertain any substantive challenges to these provisions (see *Section 166, "Substantive Challenges"*) during the municipal curative amendment process -- which can save the Borough a significant amount of time and money.

The provisions of *Section 710* only apply to the Borough Council and the parties with which it comes into contact on zoning-related issues. Like the other sections of *Article 7*, these provisions do not apply to the property owners regulated by this ordinance unless a section of *Article 1* or *Article 2* says so.

B. The Zoning-Related Duties of the Borough Council: The Borough Council's major duties under this ordinance -- as well as some rules that apply to these duties -- are provided below.

1. The Borough Council shall appoint the Borough's Zoning Officer according to the requirements of *Section 700, "The Zoning Officer."*
2. The Borough Council shall hear all applications for temporary uses according to both the following rules and the express requirements of *Article 4, "Temporary Uses."*
 - a. The Borough Council shall commence a hearing on an application for a temporary use within 60 days of that application's being filed -- in a complete state -- with the Zoning Officer.
 - b. The Zoning Officer shall provide public notice of this hearing in the same manner as the public notice of a special exception hearing before the Zoning Hearing Board would be provided (see *Section 705, letter "H"*).

- c. Council shall render a written decision on the temporary use application within 45 days of the last involved hearing before Council.
 - d. Where Council fails to commence the hearing within the first period stipulated above, or where Council fails to render the decision within the second period stipulated above, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been deemed in this manner, Council shall give public notice of the decision within 10 days of the last day that it could have met to render a decision.
 - e. Where the application is contested or denied, it shall be accompanied by findings of facts, the conclusions based on these facts, and the reason that such conclusions were drawn. This will show that the decision was reasoned, and not arbitrary. References to any provisions of any ordinance, rule, or regulation relied on for any conclusion must be made, along with the reason that the conclusion is appropriate for the particular case at hand.
 - f. A copy of the final decision shall be delivered to the applicant personally or mailed to him no later than the day following its date.
 - g. The Council's decision concerning an application for a temporary use may be appealed to any court of competent jurisdiction.
3. The Borough Council shall hear all applications for conditional uses according to both the following rules and the express provisions of *Article 3, "Special Exceptions and Conditional Uses."*
- a. The Borough Council shall commence a hearing on an application for a conditional use within 60 days of that application's being filed -- in a complete state -- with the Zoning Officer.
 - b. The Zoning Officer shall provide public notice of this hearing in the same manner as the public notice of a special exception hearing before the Zoning Hearing Board would be provided (see *Section 705, letter "H"*).
 - c. The Borough Council shall render a written decision within 45 days of the last involved hearing before Council.
 - d. Where Council fails to commence the hearing within the first period stipulated above, or where Council fails to render the decision within the second period stipulated above, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been deemed in this manner, Council shall give public notice of the decision within 10 days of the last day that it could have met to render a decision.

- e. In granting a conditional use, Borough Council may attach reasonable conditions and safeguards, in addition to those expressed in *Article 3 ("Special Exceptions and Conditional Uses")*, as it may deem necessary to implement the purposes of this ordinance.
 - f. Where the application is contested or denied, it shall be accompanied by findings of facts, the conclusions based on these facts, and the reason that such conclusions were drawn. This will show that the decision was reasoned, and not arbitrary. References to any provisions of any ordinance, rule, or regulation relied on for any conclusion must be made, along with the reason that the conclusion is appropriate for the particular case at hand.
 - g. A copy of the final decision shall be delivered to the applicant personally or mailed to him no later than the day following its date.
 - h. Applications for conditional uses may be appealed to any court of competent jurisdiction.
4. The Borough Council shall enact all amendments to this ordinance that are not landowner curative amendments according to the rules below.
- a. Before voting on the enactment of such an amendment, the Borough Council shall hold a public hearing.
 - b. Public notice of this hearing shall be provided according to the rules below.
 - (1) The public notice shall include the time and place of the hearing, the purpose of the hearing, the full text or a brief summary of the proposed amendment prepared by the Borough Solicitor, the date of the publication, and a statement that reads "All persons having an interest in these matters are encouraged to attend this meeting. Persons with a disability who wish to attend this hearing and require an auxiliary aid, service, or other disability accommodation to participate in the proceedings can be accommodated by contacting the Borough Manager's Office."
 - (2) If a summary of the proposed amendment is included in the public notice instead of its full text, then (1) the notice shall include a place within the municipality where copies of the full text may be examined without charge or copied at cost, (2) a copy of the full text shall be supplied to a newspaper of general circulation in the Borough at the time the public notice is published in that paper, and (3) an attested copy of the full text shall be filed in the Somerset County law library or another county office designated by the county commissioners.
 - (3) This public notice shall be published in a newspaper of general

circulation once each week for two consecutive weeks. The first of these publications shall not be more than 60 days prior to passage or 30 days before the hearing. The second of these shall not be less than 7 days before either the hearing or passage.

- (4) If substantial changes are made in the proposed amendment before passage but after the involved public hearing, then a notice shall be published in a newspaper of general circulation within Meyersdale at least 10 days prior to enactment that sets forth the provisions in reasonable detail together with a summary of the changes made. If these changes involve land that was previously not affected by the proposed amendment, then the above requirement shall be dropped, and the public hearing process shall start over again.
 - (5) If the amendment at hand involves a zoning map change, then notice of the hearing shall be posted by the Borough at points deemed sufficient along involved tracts to notify potentially interested citizens. Such postings shall be made at least one week prior to the date of the hearing.
- c. If the amendment was prepared by a group other than the planning committee, then Borough Council shall submit it to the planning committee at least 30 days prior to that amendment's hearing so that the planning Committee may submit its recommendations.
 - d. Council shall submit the proposed amendment to the Somerset County Planning Committee for recommendations at least 30 days before that amendment's public hearing. If the amendment is enacted, then a copy of it shall be forwarded to the Somerset County Planning Commission within 30 days of this enactment.
 - e. The Borough may offer a mediation option as an aid in completing this section's proceedings. Mediation is described in the table³² in Section 705, "The Zoning Hearing Board," letter "H."
5. The Borough Council shall hear all applications for landowner curative amendments according to both the following rules and the provisions of Section 166, "Substantive Challenges."
- a. The Council shall commence a hearing on a proposed landowner curative amendment within 60 days of the filing of a complete application for that amendment.
 - b. Public notice of this hearing shall be given according to the requirements

³²The Borough Council shall be substituted for the Zoning Hearing Board in this table as it applies to this section.

of letter "B," number "4," letter "b" above. This notice shall include (1) notice that the validity of the ordinance or map is in question, and (2) the place and times where a copy of the proposed amendment -- including any plans or explanatory materials -- may be examined by the public.

- c. Borough Council shall submit the proposed amendment to the planning committee at least 30 days prior to that amendment's hearing so that the planning committee may submit its recommendations.
- d. The Borough Council shall render a written decision within 45 days of the end of the hearing.
- e. The Borough Council may prescribe reasonable fees for such a hearing which may include (1) compensation for the secretary, (2) public notice and advertising costs, (3) necessary administrative overhead connected with the hearing, and (4) one-half of the stenographer's fee. The cost of the original transcript shall be paid by the Borough if the original is ordered by the Borough, and shall be paid by the applicant if he or she orders it. Additional copies shall be paid for by the parties requesting them. Fees may not compensate for the legal expenses of the Council. Furthermore, fees may not be used to compensate engineering, architectural, planning, or other technical consultants or expert witnesses.
- f. The hearing itself shall be conducted according to the rules below.

SUBJECT	RULES
<p>Conducting the Hearing</p>	<ul style="list-style-type: none"> ■ A stenographic record that conforms with civil trial transcripts must be taken in all hearings. The substance of all official actions, the names of people who appear officially, and the subject of their testimony must be recorded. ■ Each party has the right to be represented by legal council, to present and respond to evidence, and to cross-examine adverse witnesses on all relevant issues. ■ The Borough Solicitor shall represent Borough Council, if requested. However, Council may retain an independent attorney to present the defense of the challenged ordinance. ■ The Council has the power to administer oaths and issue subpoenas to compel both the attendance of relevant witnesses and the production of relevant papers. All testimony should be sworn, as unsworn statements do not constitute legal evidence to make a record. ■ Formal rules of evidence do not apply to these hearings. However, the Council may exclude any irrelevant, immaterial, or unduly repetitious evidence. Hearsay evidence, if not objected to, may be given its natural probative value. Yet, the Council has the power to reject even uncontradicted testimony if it finds this testimony to be lacking in credibility. ■ In the time following the beginning of a hearing and prior to a rendering of the decision or findings, the Council shall not communicate with any party or party representatives unless all parties are given an opportunity to participate. No communication, reports, staff memoranda, or other materials may be accepted or noticed by the Council unless all parties are given an opportunity to contest that information. The Council should not inspect the involved site or its surroundings during the hearings unless all parties are given an opportunity to be present. Any reports by the Zoning Officer shall be filed with all involved parties. ■ A case should not be postponed to a later date without substantial or compelling reasons, especially if the issue is of great concern and has attracted an audience. However, where (1) a new issue is raised for the first time at a hearing, and (2) the applicant had no notice of this issue, the hearing should be continued at a later date to give the applicant an opportunity to react properly. When a case is continued at a second hearing, a notice shall be prominently posted at the hearing site, and all involved parties must be notified.

SUBJECT	RULES
<p>Making a Decision</p>	<ul style="list-style-type: none"> ■ In voting on a final decision, the vote cast by each Council member shall be made publicly. ■ In making its decision, Council shall consider (1) the proposed amendments, plans, and explanatory materials submitted by the applicant; (2) the impact of the proposal on roads, sewer facilities, water supplies, schools, and other public service facilities; (3) the impact of the proposal on regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions; (4) the suitability of the site for the intensity of use proposed (considering the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources, and other natural features); (5) the impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources; and (5) the impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare. ■ Where Council fails to render this decision within the required period, or fails to hold the hearing within the required period, the decision shall be deemed to have been rendered against the amendment. When a deemed decision is rendered, Council shall give notice of this within 10 days of the last day that it could have met to render a decision. ■ If Council determines that a validity challenge has merit, then it may either accept the applicant's landowner curative amendment – with or without revision – or adopt an alternative amendment that will cure the alleged defects in this ordinance. ■ Where an application is denied, the resulting decision must be accompanied by a finding of fact, the conclusions based on these facts, and the reason that such conclusions were drawn. This will show that the decision was reasoned, and not arbitrary. References to any provisions of any ordinance, rule, or regulation relied on for any conclusion must be made, along with the reason that the conclusion is appropriate for the particular case at hand. ■ Even where an application is not denied, the resulting decision should be accompanied by a statement of findings or an opinion that is detailed enough to substantiate the involved decision. ■ A copy of the final decision must be delivered or mailed to the applicant no later than the day after the date of the report.

g. The Council's decision may be appealed to any court of competent jurisdiction.

6. The Borough Council shall determine the off-street parking space and/or off-street loading berth requirements of (1) uses that are not listed in the table in *Section 265 ("Land Uses, Off-Street Parking, and Off-Street Loading")*, and (2) lots or buildings whose use is not yet known to the level of detail required by this table. In doing so, Council may request a recommendation from the Meyersdale Planning Committee.

7. If Borough Council determines that this ordinance or a portion thereof is substantially invalid or defected, then Council may initiate a municipal curative amendment as follows.

a. Council shall first (1) declare this ordinance or the substantially invalid

portion or portions thereof to be invalid by formal action, and (2) propose to prepare a municipal curative amendment to overcome these invalidities.

b. Within 30 days of the declaration and proposal, Council shall:

(1) make findings by resolution that set forth the declared invalidity or invalidities (this may include references to specific uses which are either not permitted or not permitted in sufficient quantity, to a class or use or uses which require revision, or to the entire ordinance), and

(2) begin to prepare and consider a curative amendment to the zoning ordinance that will correct these invalidities.

c. Within 180 days of the declaration and proposal, Council shall either (1) enact this curative amendment according to the provisions of *letter "B," number "4"* of this section, or (2) reaffirm the validity of this ordinance.

d. During this 180 day period, the Borough of Meyersdale, its Council, and its Zoning Hearing Board shall not be required to entertain or consider any substantive challenges to the validity of this ordinance (as laid out in *Section 166, "Substantive Challenges"*) that are based on the same invalidities declared under *letter "b"* above.

e. The Borough may not initiate another municipal curative amendment for 36 months after the date that either the curative amendment is enacted or the validity of this ordinance is reaffirmed. However, if a new duty or obligation is imposed on the Borough by a statute or a Pennsylvania Appellate Court decision, then the Borough may ignore this rule in order to amend this ordinance to fulfill said duty or obligation.

Article 7, Administration, 130

ARTICLE VII TERMINOLOGY

The words that are defined in this article shall be interpreted as they are defined here. Words that are not defined here shall be given their usual and ordinary meaning within the Borough of Meyersdale. See Section 121, "Interpreting the Language of This Ordinance," for other rules concerning the interpretation of this ordinance's wording.

ACCESSORY BUILDING - A building which is subordinate to the main building on the lot and is used for purposes customarily incidental to the use of the main building or lot.

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

ADULT ARCADE - A place to which the public is permitted or invited to come and operate coin or slug-operated still picture machines, motion picture machines, projectors, or other image-producing devices that are electronically, electrically, or mechanically controlled. In an adult arcade, some or all of these devices are maintained to show images to five or fewer persons at any one time. The images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

ADULT BOOKSTORE or ADULT VIDEO STORE - A commercial establishment which, as one of the principal business purposes, offers for sale or rental for any form of the following:

- A. Books, magazines, periodicals, photographs, other printed matter, films, motion pictures, video cassettes, video reproductions, slides, or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas"
- B. Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities"

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an **ADULT BOOKSTORE** or **ADULT VIDEO STORE**. Such other business purposes will not serve to exempt such commercial establishment from being categorized as an **ADULT BOOKSTORE** or **ADULT VIDEO STORE** so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe "specified activities" or "specified anatomical areas."

ADULT CABARET - A nightclub, bar, or similar commercial establishment which regularly features one or more of the following:

- A. Persons who appear in the state of nudity
- B. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"
- C. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"

ADULT MOTEL - A hotel, motel, or similar commercial establishment which:

- A. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and which advertises the availability of this adult type of photographic reproductions; or
- B. Offers sleeping rooms for rent four (4) or more times in one calendar day during five (5) or more calendar days in any continuous 30-day period.

ADULT MOTION PICTURE THEATER - A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or other photographic reproductions are regularly shown that are characterized by the depiction or description of "special sexual activities" or by "specified anatomical areas."

ADULT THEATER means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or "specified sexual activities."

ADULT RETIREMENT COMMUNITY - A planned development that emphasizes social and recreational activities but may also provide personal services, limited health facilities, and transportation for retired senior citizens.

AGRICULTURAL SERVICE BUSINESS - Establishments primarily engaged in supplying soil preparation services, crop services, landscaping, horticultural services, veterinary and other animal services, or farm labor and management services.

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

ANIMATED SIGN - Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

ANTENNA - A device used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based structures.

ARCHITECTURAL CONCEPT - The basic aesthetic idea of a building, group of buildings, group of structures, or site and landscape development that produces distinctive character.

AUTOMOBILE - A self propelled free moving vehicle with four or more wheels that is intended to be used primarily as conveyance on a street or roadway.

AUTOMOBILE REPAIR SHOP - A business that engages in engine rebuilding, major reconditioning of broken or damaged motor vehicles or trailers, collision repair service (including body, frame, or fender straightening or repair), vehicle painting, replacement of parts, motor service to automobiles, and/or state inspections.

AUTOMOBILE SALES - The use of any building, land area, or other premise for the display and sale of new or used automobiles, trucks, vans, trailers, or recreational vehicles - including any vehicle preparation or repair work conducted as an accessory use.

BANNER - Any sign of lightweight fabric or similar material that is permanently mounted to a pole or building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

BAR - Premises used primarily for the sale or dispensing of liquor by the drink for on-site consumption. Food may be available for consumption on the premises as an accessory use. Such establishments are licensed by the Pennsylvania Liquor Control Board.

BASEMENT - A structure story that is partly underground, but has at least one-half of its height above the average level of the adjoining ground.

BEACON - Any light with one or more beams directed into the atmosphere or directed at one or more points that are not on the same lot as the light source.

BED AND BREAKFAST ESTABLISHMENT - The provision of overnight accommodations for transient guests on a daily or weekly basis. The owner of the dwelling must live on the premises.

BOROUGH - The Borough of Meyersdale.

BUILDING - Any structure having a roof supported by columns or walls that is intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, business, or materials of any kind.

BUILDING FRONTAGE - A side of a building that faces a street to which the building's lot is adjacent.

BUILDING MARKER - Any sign indicating the name and date of a building, as well as incidental information about its construction, which is cut into a masonry surface or made of bronze or other permanent material.

BUILDING, PRINCIPAL - The building in which is conducted the principle use of the lot (or in the case of sign regulations, zone lot) on which it is located. Lots or zone lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings.

BUILDING SIGN - Any sign attached to any part of a building, as contrasted to a freestanding sign.

CANOPY SIGN - Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

CAR WASH - A commercial structure, maintained as a for-profit business, that contains facilities for washing and drying automobiles. The application of cleaners, brushes, rinse water, and heat for drying may be automatic, semi-automatic, or manual.

CARTWAY - The paved area of a street between the curbs; including travel lanes and parking areas but not including shoulders, curbs, sidewalks, or swales.

CHANGEABLE COPY SIGN - A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for the purposes of this ordinance. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for the purposes of this ordinance.

CHANGE OF USE - Any business or activity modification that involves changing the classification of a land use under the Standard Industrial Classification Manual from one three-digit group to another three-digit group. Changes of occupancy or changes of ownership shall not be construed as change of use.

CHILD-ORIENTED BUSINESS - A commercial establishment which, as one of its principal business purposes, serves and/or sells to children and their families food, apparels, goods, services, play and/or entertainment.

COMMERCIAL BUILDING - A building whose principal use is a commercial use. Hence, a building with a store on the first floor and apartments on the second floor is a commercial building.

COMMERCIAL DISTRICT - A zoning district that contains the word "Commercial" in its full title.

COMMERCIAL LOT - A lot whose principal use is a commercial use.

Article 8, Terminology, 134

COMMERCIAL MESSAGE - Any sign, wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

COMMERCIAL USE - An activity involving the sale of goods or services carried out for profit. A home occupation is excluded from this category solely for the purposes of this ordinance.

COMMERCIAL VEHICLE - Any motor vehicle licensed by the state as a commercial vehicle.

COMPACT CAR - Any motor vehicle that does not exceed fifteen feet in length, bumper to bumper, or five feet, nine inches, in width.

CONDITIONAL USE - See Article 3, *"Special Exceptions and Conditional Uses."*

CORNER LOT - See Lot, Corner.

COUNTRY CLUB - A land area and buildings containing golf courses, recreational facilities, a clubhouse, and customary accessory uses. Such clubs are usually open only to members and their guests.

COVERAGE - That percentage of the parcel or lot area that is covered by the buildings, paved areas, parking areas, and accessory structures.

DAY-CARE CENTER - Any premise other than the child's own home operated for profit or not for profit, in which child day care is provided at any one time to six or more children who are not relatives of the care giver.

DENSITY - The number of families, individuals, dwelling units, households, or housing per unit of land.

DWELLING UNIT - Any building or portion of a building that contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, for not more than one household or family.

ERECT - To build, construct, attach, hang, place, suspend, or affix. Also, to paint a wall sign is to erect that sign.

ESCORT - A person who, for a fee, agrees or offers to act as a companion, guide, or date for another person. Furthermore, an escort is a person who, for a fee, agrees or offers to privately model lingerie or perform a striptease for another person.

ESCORT AGENCY - A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes. Such a business charges a fee, tip, or other consideration for the provision of escorts.

FAMILY - A group of individuals not necessarily related by blood, marriage, adoption, or guardianship – living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship.

FENCE - An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

FENCE, LIVING - A planted visual barrier provided along a property line consisting of low-level shrubs, hedges, or similar landscape screening materials – excluding trees.

FLAG - For the purposes of this ordinance, this category includes the flags of the United States, the states themselves, local governments, foreign nations having diplomatic relations with the United States, institutions, businesses, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction. Any flag that does not meet these requirements shall be considered a banner sign by this ordinance.

FLOODPLAIN - The channel and the relatively flat area adjoining the channel of a natural stream or river that has been or may be covered by floodwater. The legal borders of floodplains are usually defined in Borough Ordinances.

FREESTANDING SIGN - Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

FRONT YARD - See Yard, Front.

FRONTAGE - That side of a lot abutting on a street, i.e., the front lot line.

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

GARAGE, COMMUNITY - A garage used exclusively for parking and storage of vehicles that are owned or operated by residents of nearby dwelling units and their guests. Such a garage is neither operated as a commercial enterprise nor available to the general public. It is operated by the residents themselves.

GARAGE, PRIVATE CUSTOMER AND EMPLOYEE - A structure that is accessory to a retail commercial or manufacturing establishment and is used primarily for the parking and storage of vehicles operated by the establishment's customers, visitors, and employees.

GARAGE, PRIVATE RESIDENTIAL - A structure that is accessory to a residential building and that is used for the parking and storage of vehicles owned and operated by the residents thereof. A private residential garage is not a separate commercial enterprise available to the general public.

GARAGE, PUBLIC - A structure or portion thereof that is used primarily for the parking and storage of vehicles and that is available to the general public -- but is not a private residential garage, private customer and employee garage, community garage, or municipal garage.

GOLF COURSE - A tract of land laid out for playing the game of golf and improved with tees, greens, fairways, hazards, and at least nine holes. A golf course may include a clubhouse and shelter.

GOVERNMENT BUILDING - A building owned or leased by a governmental agency.

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

GROUP HOME - A residence occupied by unrelated persons who either by choice, referral, and/or governmental policy cannot live independently by themselves, but instead require a level of assistance, monitoring, or supervision related to individual situations. A group home may be distinguished from large-scale hospitals or institutions that serve the same purpose by the family-like setting in which its residents live.

GROSS FLOOR AREA - The sum of the gross horizontal areas of the several floors of a building or structure from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than six feet.

HEALTH CLUB - An establishment that provides facilities for exercise such as running and jogging tracks or treadmills, exercise equipment, game courts, swimming facilities, saunas, showers, massage rooms, and lockers.

HEAVY INDUSTRIAL USE - A land use that (1) engages in research and development, wholesale distribution, storage, warehousing, packaging, production, fabrication, processing, cleaning, servicing, repair, testing, and/or manufacturing activities, but (2) cannot be classified as a "Light Industrial" use.

HEIGHT REGULATIONS - A regulation that limits the height of a building or structure. These controls are always "maximum" height regulations in this ordinance (i.e., they specify, in feet, the greatest height that a building or structure is allowed to achieve). Such heights are measured, for all structures that are neither buildings or signs, as the vertical distance from the finished grade to the highest point of the structure. For buildings, they are measured as the vertical distance from the finished grade to the top of the highest roof beams on a flat or shed building roof, the deck level on a mansard roof, or the ridge level on a gable, hip, or gambrel roof. *Section 605, "Computations,"* explains how to measure the height of a sign.

HOME OCCUPATION - See *Section 505, "Home Occupations."*

HOSPITAL - An institution providing primary health care services and medical or surgical care to persons who are primarily inpatients that are suffering from illness, disease, injury, deformity, or other abnormal physical or mental conditions. Hospitals contain, as an integral part of the institution, related facilities – such as laboratories, outpatient facilities, training facilities, medical offices, and staff residences.

HOTEL - A facility offering transient lodging accommodations to the general public and providing additional services such as restaurants, meeting rooms, entertainment, and recreational facilities.

HOUSEHOLD - Either a family living together, or a single person living alone, in a single dwelling unit with common access to and common use of all areas within the dwelling. See *Family*.

INCIDENTAL SIGN - A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.

INDUSTRIAL BUILDING - A building whose principal use is an industrial use. Hence, a building that contains a factory and an employee cafeteria is an industrial building.

INDUSTRIAL DISTRICT - A district that contains the word "Industrial" in its full title.

INDUSTRIAL LOT - A lot whose principal use is an industrial use.

INDUSTRIAL USE - An activity involving the manufacture of tangible goods from either raw or processed materials. A home occupation is excluded from this category solely for the purposes of this ordinance.

INFILL DEVELOPMENT - The development of new housing or other buildings on scattered vacant sites that are surrounded by built-up areas.

INFRASTRUCTURE - Facilities and services needed to sustain a community's industrial, residential, commercial, and public activities.

INN - A commercial facility for the housing and feeding of transients.

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

LAND USE - See *use*.

LANDFILL - A disposal site in which refuse and a suitable cover materials are deposited and compacted in alternative layers of specified depth in accordance with an approved plan.

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

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

LIGHT INDUSTRIAL USE - A light industrial use fits into one of the following two categories.

A. A land use that engages in the research and development, wholesale distribution, storage, warehousing, packaging, and/or light manufacturing of the products listed in the table below, so long as substances which have been identified as hazardous materials by Federal, State, County, or Borough actions are not used or handled in quantities greater than those that would normally be associated with commercial operations.

Art equipment Audio equipment Ceramics, pottery, or figurines using only previously fired clay and kilns fired by either electricity or gas Clocks Communications equipment Computers and computer equipment Data processing equipment and systems Electric household appliances and equipment Electric, neon, or billboard signs Graphics Ice Lasers Medical instruments Medicine Metering equipment	Musical instruments Novelties Optical devices and equipment Passive electronic components Photographic equipment Printed and published materials Radios or radio equipment Robotics Rubber and metal hand stamps Semiconductors Sheet metal products such as heating and ventilation ducts, cornices, and eaves Television equipment Toys Vacuum technologies Watches
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B. Land uses involved in the wholesale distribution, storage, warehousing, manufacturing, processing, canning, or packaging of goods from previously prepared materials that are listed below, so long as the involved facility does not (1) render or refine fats and oils, and (2) handle substances -- in quantities greater than those normally associated with commercial operations -- that have been identified as hazardous materials by Federal, State, County, or Borough actions.

agricultural products animal or human hair bone canvas cellophane cloth cork cosmetics dairy products drugs feathers felt food products fur glass	horn leather natural fibers paint paper pharmaceuticals plastics precious or semi-precious metals or stones shell soaps soft drinks textiles tobacco wood
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LOT - A designated parcel, tract, or area of land established by a plat or otherwise as permitted by law and to be used, developed, or built upon as a unit.

LOT, CONFORMING - An occupied or unoccupied lot whose use, buildings, and layout meet the requirements of the zoning district in which it is located.

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LOT, CORNER - A lot or parcel of land either abutting on two or more streets at their intersection or abutting on two parts of the same street forming an interior angle of less than 135 degrees.

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

LOT, FLAG - A large lot that does not meet minimum frontage requirements and whose access to the involved public road is a narrow, private right-of-way or driveway.

LOT, IMPROVED - A lot on which a building either can be constructed and occupied or has been constructed.

LOT, INTERIOR - A lot that is not a corner lot.

LOT, RECORDED - A lot that has been designated on a plot or a subdivision, and has been duly recorded with the Recorder of Deeds of Somerset County. A "recorded lot" may be conforming or non-conforming.

LOT, REVERSE FRONTAGE - A through lot that is not accessible from one of the parallel or non-intersecting streets on which it fronts.

LOT, THROUGH - A lot that fronts on two streets that do not intersect at the boundaries of the lot.

LOT AREA - The total area within the lot lines of a lot, excluding any street rights-of-way. A *MINIMUM LOT AREA REQUIREMENT* specifies the smallest area that a lot may have.

LOT COVERAGE - The percentage of a lot's area that is covered by buildings. See Building Coverage. A *MAXIMUM LOT COVERAGE REQUIREMENT* specifies the largest number that this percentage is allowed to reach.

LOT FRONTAGE - The length of the front lot line. A *MINIMUM LOT FRONTAGE REQUIREMENT* specifies the shortest length permitted.

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

- A. **LOT LINE, FRONT** - On lots that are not corner lots, this is a lot line that abuts the right-of-way of a street. On corner lots, this is the lot line that abuts the right-of-way of the street (or street segment) that the main front of the principal structure located on that lot faces (or will face).
- B. **LOT LINE, REAR** - A lot line, not intersecting a front lot line, which is most closely parallel to the front lot line. In the case of triangular or otherwise irregularly shaped lots, the rear lot line is a line ten feet in length that is entirely within the lot, parallel to the front lot line, and at a maximum distance from the front lot line.
- C. **LOT LINE, SIDE** - On non-corner lots, this is any lot line other than a front or rear lot line.
- D. **LOT LINE, SIDE STREET** - On corner lots, this is a lot line that abuts the right-of-way of a street, but is not a front lot line.
- E. **LOT LINE, NON-SIDE STREET** - On corner lots, this is a lot line that is not a front, rear, or side street lot line.

LOT OF RECORD - A lot that exists as shown or described on a plat or deed in the records of the local registry of deeds.

LOT REGULATIONS - A minimum lot area requirement, a minimum lot frontage requirement, or a minimum lot coverage requirement.

LOT WIDTH - The horizontal distance between the side lines of a lot, measured at right angles to its depth along a straight line that is parallel to the front lot line.

MAJOR IMPACT HOME OCCUPATION - See *Section 505, "Home Occupations."*

MANUFACTURED HOUSING - Factory-built, single-family structures that meet the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sec. 5401), commonly known as the HUD (U.S. Department of Housing and Urban Development) code.

MARQUEE - Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

MARQUEE SIGN - Any sign attached to or made a part of a marquee.

MINOR IMPACT HOME OCCUPATION - See *Section 505, "Home Occupations."*

MINOR TRAFFIC GENERATOR - Any use or uses that generate less than a total of five hundred vehicle trips per day. See Major Traffic Generator.

MIXED-USE DEVELOPMENT - A tract of land, building, or structure that contains a variety of complementary and integrated uses in a compact urban form.

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

MOBILEHOME LOT - A parcel of land in a mobilehome park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobilehome.

MOBILEHOME PARK - A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobilehome lots for the placement thereon of mobilehomes. Also, a site containing spaces with required improvements and utilities that are leased for the long-term placement of mobilehomes and that may include services and facilities for the residents.

MOTEL - An establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside (i.e., guests need not pass through the main lobby of the building to get outside).

MULTI USE BUILDING - A building containing two or more distinct uses.

MUNICIPALITY - A political subdivision that can adopt and enforce development ordinances if so empowered by state legislation.

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

NIGHTCLUB - An establishment dispensing liquor and food. Music, dancing, or other forms of entertainment may be conducted in a nightclub.

NONCONFORMING LOT - A lot whose area or dimension was lawful prior to the adoption or amendment of a zoning ordinance, but fails to conform to the present requirements of the zoning ordinance. See *Section 154, "Nonconformities."*

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NONCONFORMING SIGN - A nonconforming sign is defined as a sign that (1) legally established before the effective date of this ordinance enactment (see Section 118, "The Effective Date of This Ordinance's Enactment"), and (2) does not conflict with the requirements of Section 605 ("Comps"), Section 610 ("Signs Allowed on Private Property Without Permits"), Section 620 ("Signs in Public Right-of-Way"), or Section 630 ("Prohibited Signs").

NONCONFORMING STRUCTURE - See Section 154, "Nonconformities."

NONCONFORMING USE - See Section 154, "Nonconformities."

NONCONFORMITY - See Section 4, "Nonconformities."

NUDE MODEL STUDIO - A place where a person appears in a state of nudity or displays "specified anatomical areas" for the purpose of being observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or a form of consideration.

NUDITY or a STATE OF NUDITY - The appearance of a bare human buttock, anus, male genitals, female genitals, or female breast.

NURSERY - Land or greenhouses used to raise flowers, shrubs, and plants for sale.

OCCUPANCY or OCCUPIED - Either the residing of an individual or individuals overnight in a dwelling unit, or the storage or use of equipment, merchandise, or machinery in any public, commercial or industrial building.

OCCUPANCY PERMIT - See Section 151, "Occupancy Permits."

OFFICE - A space within a structure or a portion thereof intended or primarily suitable for vocational occupancy by persons or entities which perform, provide for their own benefit, or provide to others at that location, services similar to the following: professional, insurance, accounting, architectural design, engineering, management, consulting, legal, technical, and design - or the office functions of manufacturing and warehousing businesses. However, office uses exclude retail uses, repair, any business characterized by the physical transfer of tangible goods to customers on the premises, wholesale shipping, receiving, storage, and design showcases or any other space intended and primarily suitable for the display of goods.

OFFICE (BUSINESS OR PROFESSIONAL, BUT NOT MEDICAL OR DENTAL) - An office that does not fit the definition of "office, medical or dental" below.

OFFICE (MEDICAL OR DENTAL) - An office that provides medical, dental, chiropractic, psychiatric, or therapeutic message care to human beings on the premises.

OFFICIAL ZONING MAP OF THE BOROUGH - See Section 210, "Establishment of the Official Zoning Map."

OFF-SITE IMPROVEMENTS - Improvements required to be made off-site as a result of an application for development. Such improvements may include, but are not limited to, road widening and upgrading, stormwater facilities, and traffic improvements.

OFF-SITE PARKING - Parking provided for a specific use but located on a site other than the one on which the specific use is located.

OFF-STREET LOADING BERTH - An area for the loading or unloading of cargo that is directly accessible to an access aisle, and which is not located on a dedicated street right of way.

OFF-STREET PARKING SPACE - A temporary storage area for a motor vehicle that is directly accessible to an access aisle, and which is not located on a dedicated street right of way.

ON STREET PARKING SPACE - A temporary storage area for a motor vehicle that is located on a dedicated street right-of-way.

OPEN SPACE - Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for either public enjoyment or the use of owners, occupants, their guests, or the residents of land adjoining or neighboring such open space.

ORDINANCE - A municipally adopted law or regulation.

ORNAMENTAL TREE - A deciduous tree planted primarily for its ornamental value or screening ability. An ornamental tree tends to be smaller at maturity than a shade tree.

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

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

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

PARKING AREA, PRIVATE - A parking area for the exclusive use of the owners, tenants, lessees, customers, employees, or occupants of either the lot the on which the parking area is located or the business situated on that lot.

PARKING AREA, PUBLIC - A parking area open to the public, with or without payment of a fee.

PARKING LOT - An off-street, ground-level open area used for the temporary storage of motor vehicles. Parking lots are improved.

PARKING SPACE - A space for the parking of one motor vehicle within a public or private parking area.

PENNANT - Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string— usually in series — and designed to move in the wind.

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

PERMITTEE and/or LICENSE - A person in whose name a permit and/or license has been issued. This person is also the individual listed as an applicant on the application for a permit and/or license.

PERMITTED ACCESSORY USE - A land use or structure that (1) is allowed by right in a zoning district, (2) is subject to the restrictions applicable to the zoning district in which it is located, and (3) is customarily incidental and subordinate to the principal use of the lot on which it is located.

PERMITTED PRINCIPAL USE - A land use or structure that (1) is allowed by right in a zoning district, (2) is subject to the restrictions applicable to the zoning district in which it is located, and (3) is the principal use of the lot on which it is located.

PERMITTED USE - A land use that is allowed by right in a zoning district and is subject to the restrictions applicable to the zoning district in which it is located.

PERSON - Any association, company, corporation, firm, organization, or partnership, singular or plural, of any kind.

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

PLAT - (1) A map representing a tract of land showing the boundaries and locations of individual properties and streets. (2) A map of a subdivision or a site plan.

PLAT, FINAL - A map of a subdivision, a site plan, or a portion thereof that is presented to an approving authority for final approval.

PLAT, PRELIMINARY - A map indicating the proposed layout of the subdivision or site plan that is submitted to the approving authority for preliminary approval.

PLAT, SKETCH - An informal concept map of a proposed subdivision or site plan. A sketch plat has sufficient details to be used for the purposes of discussion and classification.

PLAYGROUND - An active recreational area with a variety of facilities, including equipment for younger children, court games, and field games.

PLOT - (1) A single unit parcel of land. (2) A parcel of land that can be identified and referenced to a recorded plat or map.

PORTABLE SIGN - Any sign not permanently attached to the ground or another permanent structure, or a sign designed to be transported. This includes, but is not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

PRINCIPAL BUILDING - See Building, Principal.

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

PRIVATE SCHOOL - See School, Private.

PROFESSIONAL OFFICE - The office of a member of a recognized profession maintained for the conduct of that profession.

PROHIBITED USE - A use that is not permitted in a zone district.

PROJECTING SIGN -- Any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

PROPERTY - A lot, parcel, or tract of land, as well as the building and structures located thereon.

PROPERTY LINE - See Lot Line.

PUBLIC AREAS - This designation includes parks, playgrounds, trails, paths, and other recreational areas; open spaces; scenic and historic sites; schools; and other places where the public is directly or indirectly invited to visit or permitted to congregate.

PUBLIC BODY - Any government or governmental agency of the Borough of Meyersdale, County of Somerset, Commonwealth of Pennsylvania.

PUBLIC BUILDING - Any building structure, facility, or complex used by the general public, whether constructed by the Commonwealth of Pennsylvania, Somerset County, the Borough of Meyersdale, a local government, a governmental instrumentality, a private individual, a corporation, a partnership, or an

association. The category of "public buildings" may include assembly buildings, libraries, public eating places, schools, theaters, business buildings, factories, and industrial buildings.

PUBLIC IMPROVEMENT - Any public facility or service – together with its associated site, building, or right-of-way. Public improvements generally provide an essential service and are usually owned and operated by a governmental agency.

PUBLIC UTILITY - A closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety, and welfare. Telephone, electric, natural gas, water, and sewer companies are public utilities; however, commercial wireless communications companies are not.

QUASI-PUBLIC USE - A use owned or operated by a nonprofit, religious, or eleemosynary institution that provides educational, cultural, recreational, religious, or similar types of programs.

REAR LOT LINE - See Lot Line, Rear.

REAR YARD - See Yard, Rear.

RECREATION FACILITY - A place designed and equipped for the conduct of sports and leisure-time activities.

RECREATION FACILITY, COMMERCIAL - A recreation facility that is operated as a business and is open to the public for a fee.

RECREATION FACILITY, PRIVATE - A recreation facility operated by a nonprofit organization and open only to bona fide members and guests of that organization.

RECREATION, PUBLIC - A recreation facility open to the general public.

RECREATIONAL DEVELOPMENT - A residential development planned, maintained, operated, and integrated with a major recreation facility, such as a golf course, ski resort, or marina.

RECREATIONAL VEHICLE - A vehicle-type portable structure without a permanent foundation that is primarily designed as a temporary living accommodation for recreational, camping, and travel use. A recreational vehicle can be towed, hauled, or driven. The category of recreational vehicles includes, but is not limited to, travel trailers, truck campers, camping trailers, and self propelled motor homes.

REGION - A geographic area defined by some common feature, such as a river basin, housing market, commuter-shed, economic activity, or political jurisdiction.

RENT - A periodic payment, made by a tenant, to a landlord for the use of land, buildings, structures, or other property.

RENTAL HOUSING - Housing occupied by a tenant paying rent to an owner where no part of the rent is used to acquire equity in the property.

RESEARCH LABORATORY - An establishment or facility used to carry on investigation in the natural, physical, or social sciences. This may include engineering and product development.

RESIDENTIAL BUILDING - A building whose principal use is a residential use. Hence, a building that contains 100 dwellings and a small restaurant on the bottom floor is a residential building.

RESIDENTIAL DISTRICT - A zoning district that contains the word "Residential" in its title.

RESIDENTIAL DWELLING - Any building or portion of a building that contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, for not more than one household or family.

RESIDENTIAL LOT - A lot whose principal use is a residential use.

RESIDENTIAL SIGN - Any sign located in a district zoned for residential uses that contains no commercial message except one advertising goods or services legally offered on the premises where the sign is located.

RESIDENTIAL USE - The use of a building or lot to provide dwelling space for human beings.

RESTAURANT - An establishment where food and drink are prepared, served, and consumed primarily within the principal building.

RETAIL FOOD ESTABLISHMENT, MOBILE - A vehicle -- normally a van, truck, towed trailer, or pushcart -- from which food and beverages are sold.

RETAIL SALES - Establishments engaged in selling goods or merchandise to the general public for personal or household consumption. Retail sales establishments may also render services incidental to the sale of such goods.

RETAIL SALES, OUTDOOR - The display and sale of products and services primarily outside of a building or structure. Goods that may be sold at an outdoor retail sales establishment include, but are not limited to, garden supplies, gas, tires, motor oil, food, beverages, boats, aircraft, farm equipment, motor homes, burial monuments, building and landscape materials, and lumber.

RETAIL SERVICES - Establishments providing services or entertainment, as opposed to products, to the general public for personal or household use. Retail service establishments may provide services such as eating and drinking, lodging, finance, insurance, real estate, personal services, motion pictures, amusement and recreational services, health care, or educational/social services.

REVERSE FRONTAGE - See Lot, Reverse Frontage.

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

ROOFLINE - The juncture of the roof and the perimeter wall of the structure.

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

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

RUNOFF - The portion of rainfall, melted snow, irrigation water, or any other liquid that flows across the ground surface and eventually is returned to streams.

SANITARY SEWAGE - Any liquid waste containing animal or vegetable matter in suspension or solution. This includes water-carried waste resulting from the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers, or any other human activity that produces putrescible material.

SANITARY SEWERS - Pipes that carry domestic or commercial sanitary sewage. Storm, surface, and ground waters are not intentionally admitted into a sanitary sewer.

SATELLITE DISH ANTENNA - A device that is composed of a reflective surface that is solid, open mesh, or bar-configured, and is in the shape of a shallow dish, cone, or horn. Satellite dish antennas are used to transmit or receive radio or similar type signals to or from terrestrially based towers and/or Earth orbiting

satellites. This definition is meant to include, but is not limited to, what are commonly referred to as satellite Earth stations, TVRO's (Television Reception Only), and microwave antennas.

SCHOOL - Any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge.

SCHOOL, ELEMENTARY - Any school that is licensed by the state and that meets the state requirements for elementary education.

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

SCHOOL DISTRICT - A district that serves as a unit for state financing and administration of elementary and secondary schools.

SEASONAL, DWELLING UNIT - A dwelling unit that lacks one or more of the basic amenities or utilities required for all-year or all-weather occupancy.

SEASONAL STRUCTURE - A temporary covering erected over a recreational amenity, such as a swimming pool or a tennis court, so that its use may be extended through the cold weather months.

SEASONAL USE - A use carried on for only a part of the year, such as outdoor swimming pools or skiing.

SELF-SERVICE STORAGE FACILITY - A structure containing separate, individual, and private storage spaces of varying sizes that are leased or rented on individual leases for varying periods of time.

SEMI-NUDE - A state of dress in which clothing covers no more than the genitals, the pubic region, and the areola of the female breast. Although supporting straps or devices may cover additional parts of the body, such items shall not remove a body from the state of semi-nudity.

SEMI-PUBLIC BODY - Any organization that operates as a nonprofit activity and serves a public purpose. Semi-public bodies include, but are not limited to, such organizations as noncommercial clubs, lodges, theater groups, recreational and neighborhood associations, and schools.

SEPTIC TANK - A water-tight receptacle that receives sewage discharge from a building, sewer, or part thereof. A septic tank is designed and constructed to permit the settling of solids from this liquid, the digestion of the organic matter, and the discharge of the liquid portion into a disposal area.

SERVICES - Establishments primarily engaged in providing assistance, as opposed to products, to individuals, business, industry, government, and other enterprises. Service land uses include, but are not limited to, the following: hotels and other lodging places; personal, business, repair, and amusement services; health, legal, engineering, and other professional services; educational services; and membership organizations.

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

Article 8, Terminology, 146

- 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 or publicly held right-of-way. 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 subtracted from that lot's minimum and maximum front setback requirements. If the sidewalks directly along the side street side of a corner lot are not legally included as a part of that lot, then six feet shall be subtracted from that lot's minimum and maximum side street setback requirements. These adjustments are to compensate for the setbacks that are already provided for the involved lot by the sidewalk property, and may not be interpreted as allowing the construction of a structure beyond the lot's legal boundaries.

SEWAGE - The total of organic waste and wastewater generated by residential, industrial, and commercial establishments.

SEWER - Any pipe or conduit used to collect and carry away sewage or stormwater runoff from the generating source to treatment plants or receiving streams.

SEWER SYSTEM AND TREATMENT - Devices for the collection, treatment, and disposal of sewage.

SEWERAGE - (1) All effluent carried by sewers – including sanitary sewage, industrial wastes, and stormwater runoff; (2) the entire system of sewage collection, treatment, and disposal.

SEXUAL ENCOUNTER CENTER - A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; and
- B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

SEXUALLY ORIENTED BUSINESS - An adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

SHADE TREE - A tree, usually deciduous, planted primarily for overhead canopy.

SHOPPING CENTER - A group of commercial establishments that is planned, constructed, and managed as a total entity, and that has on-site customer and employee parking, provisions for the delivery of goods that are separate from customer accesses, aesthetic considerations, protection from the elements, landscaping, and signage – all in accordance with an approved plan.

SHOPPING MALL - A shopping center with stores on both sides of an enclosed or open pedestrian walkway.

SIDE YARD - See Yard, Side.

SIDEWALK - A paved, surfaced, or leveled area that is parallel and usually separate from the street. Sidewalks are used as pedestrian walkways.

SIDEWALK AREA - The portion of the right-of-way that lies between the edge of the right-of-way and the curb line on the same side of the roadway – regardless of whether or not a sidewalk actually exists.

SIGN - Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

SOIL EROSION AND SEDIMENT CONTROL PLAN - A plan that indicates necessary land treatment measures, including a schedule for installation, that will effectively minimize soil erosion and sedimentation.

SOLID WASTE - Unwanted or discarded material that has an insufficient liquid content to be free flowing.

SOLID WASTE DISPOSAL - The ultimate disposition of solid waste that cannot be salvaged or recycled.

SPECIAL EXCEPTION USE - A use that is allowed in a particular zoning district subject to the approval of the zoning hearing board, as specified by Article 3 of this ordinance. Such uses are authorized by Section 603 of the Pennsylvania Municipalities Planning Code.

SPECIFIED ANATOMICAL AREAS - The male genitals, female genitals, female breasts, or parts thereof.

SPECIFIED SEXUAL ACTIVITIES - This category includes all of the following:

- A. The fondling or other erotic touching of human genitals, pubic regions, buttocks, anuses, or female breasts;
- B. Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
- C. Masturbation, actual or simulated; or
- D. Excretory functions as part of or in connection with any of the activities set forth in "A" through "C" above.

STALL - The parking space in which vehicles park.

STORM SEWER - A conduit that collects and transports runoff.

STORMWATER MANAGEMENT - The control and management of stormwater to minimize the detrimental effects of surface water runoff.

STREET - Any vehicular way that, (1) is an existing state, county, or municipal roadway; (2) is shown upon a plat approved pursuant to law; (3) is approved by other official action; or (4) is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a planning board and the grant to such board of the power to review plats. A street includes all land between the street lines, no matter whether it's improved or unimproved.

Article 8, Terminology, 148

STREET, COLLECTOR - A street that collects traffic from local streets and connects with minor and major arterials.

STREET, CUL-DE-SAC - A street with a turnaround at the end and a single common ingress and egress.

STREET, DEAD-END - A street with a single common ingress and egress.

STREET FRONTAGE - The distance for which a lot line of a lot (or in the case of sign regulations, zone lot) adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.

STREET, LOCAL - A street designed to provide vehicular access to abutting property and to discourage through traffic.

STREET, LOOP - A local street that has its only ingress and egress at two points on the same collector street.

STREET, MAJOR ARTERIAL - A street with access control, channelized intersections, and restricted parking. A major arterial collects and distributes traffic to and from minor arterials.

STREET, MINOR ARTERIAL - A street that has signals at important intersections, that has stop signs on the side streets at less important intersections, and that collects traffic from and distributes traffic to collector streets.

STREET, PAPER - A street that has never been built, but is shown on an approved plan, subdivision plat, tax map, or official map.

STREET, PRIVATE - A street that has not been accepted by a municipality or any other governmental entity.

STRUCTURE - Anything constructed or erected that was lawful prior to the adoption or amendment of a zoning ordinance, and whose use requires (either directly or indirectly) a fixed location on the land.

STRUCTURE, HEIGHT OF - The vertical measured distance from the adjacent finished grade level to the highest point of a structure.

SURFACE WATER - Water on the earth's surface that is exposed to the atmosphere, such as rivers, lakes, streams, and oceans.

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

TAVERN - An establishment used primarily for the serving of liquor by the drink to the general public, but where food and/or packaged liquors may also be served or sold as an accessory use. Such establishments are licensed by the Pennsylvania Liquor Control Board.

TEMPORARY SIGN - Any sign that is used only temporarily and is not permanently mounted. Regardless of any temporary characteristics they may have, residential signs shall not be classified as temporary signs for the purposes of this ordinance.

TEMPORARY USE - A use of a limited duration that is to be discontinued after the expiration of a time period. See Article 4, "Temporary Uses."

TRAFFIC GENERATOR - A use in a particular geographic area that is likely to attract substantial vehicular or pedestrian traffic into the area.

TRAILER - A structure that stands on wheels, is towed or hauled by another vehicle, and is used for short-term human occupancy, temporary office space, or carrying materials, goods, and/or objects.

TRANSFER OF OWNERSHIP OR CONTROL - (1) The sale, lease, or sublease of a property, building, or business; (2) the transfer of securities which constitute a controlling interest in a property, building, or business; or (3) the establishment of a trust, gift, or similar legal device which transfers the ownership or control of a property, building, or business — excepting a transfer by bequest or other operation of law used upon the death of the person possessing the ownership or control.

USE - The purpose or activity for which land or buildings are designed, arranged, intended, occupied, and/or maintained.

UTILITIES EASEMENT - The right-of-way acquired by a utility or governmental agency to locate utilities, including all types of pipelines, cables, and towers.

VACANCY - A state of having no occupants. A vacant parcel of land, structure, or part thereof is available and suitable for occupancy.

VARIANCE - Permission to depart from the literal requirements of a zoning ordinance. See *Section 157, "Variances."*

WALL SIGN - Any sign attached parallel to, but within six inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

WAREHOUSE - A building used for the storage of goods and materials. This does not include "self-service storage facilities."

WINDOW SIGN - Any sign, pictures, symbol, or combination thereof designed to communicate information about an activity, business, commodity, event, sale, or service that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

YARD - An open space that lies between the principal building or buildings and the nearest lot line.

YARD, FRONT - The area between the front lot line or right-of-way and the line formed by the front of the principal building(s).

YARD, NON-SIDE STREET (*this is applicable only to corner lots*) - The area between the non-side street lot line or right-of-way and the line formed by the side of the principal building(s) that is closest to the non-side street lot line.

YARD, REAR - The area between the rear lot line and the line formed by the rear of the principal building(s).

YARD, SIDE (*this is applicable only to lots which are not corner lots*) - 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.

YARD, SIDE STREET (*this is applicable only to corner lots*) - The area between the side street lot line or right-of-way and the line formed by the side of the principal building(s) that is closest to the side street.

ZERO LOT LINE - The location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line.

ZONE LOT - A parcel of land in single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage, and land use, and that can provide such yards and other open spaces as required by this ordinance's regulations.

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

Article 8, Terminology, 150

ZONING DISTRICT - A specifically designated area or district in a municipality within which uniform regulations and requirements govern the use, placement, spacing, and size of land and buildings. See *Sections 200 through 210.*

ZONING DISTRICT MAP - See "Zoning Map."

ZONING HEARING BOARD - A multiple member board, appointed by the Meyersdale Borough Council, that hears appeals and challenges under Section 909.1(a) of the Pennsylvania Municipalities Planning Code. See *Section 705, "The Zoning Hearing Board."*

ZONING MAP - See *Section 210, "Establishment of the Official Zoning Map."*

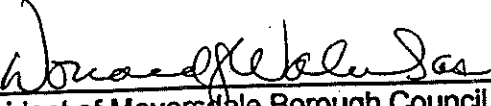
ZONING OFFICER - The administrative officer designated to administer the zoning ordinance and issue zoning permits. See *Section 700, "The Zoning Officer."*

ZONING PERMIT - See *Section 148, "Zoning Permits."*

APPENDIX

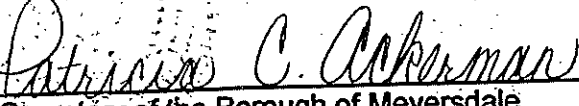
THE SIGNATURE PAGE

This ordinance was enacted by the Borough Council of Meyersdale on OCTOBER 9, 2001,
and shall take effect from that date.



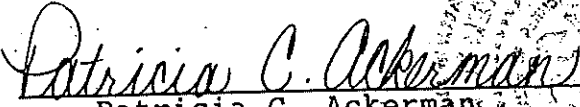
President of Meyersdale Borough Council

Attested to by



Secretary of the Borough of Meyersdale

I hereby certify that the foregoing Ordinance was advertised
in the New Republic, August 30, 2001, 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 9, 2001.



Patricia C. Ackerman
Borough Secretary

APPENDIX

THE SIGNATURE PAGE

This ordinance was enacted by the Borough Council of Meyersdale on OCTOBER 9, 2001,
and shall take effect from that date.

Donald J. Blundell
President of Meyersdale Borough Council

Attested to by

Patricia C. Ackerman
Secretary of the Borough of Meyersdale

I hereby certify that the foregoing Ordinance was advertised in the New Republic, August 30, 2001, 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 9, 2001.

Patricia C. Ackerman
Patricia C. Ackerman
Borough Secretary

APPENDIX

THE SIGNATURE PAGE

This ordinance was enacted by the Borough Council of Meyersdale on OCTOBER 9, 2001,
and shall take effect from that date.

President of Meyersdale Borough Council

Attested to by

Patricia C. Ackerman
Secretary of the Borough of Meyersdale

I hereby certify that the foregoing Ordinance was advertised in the New Republic, August 30, 2001, 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 9, 2001.

Patricia C. Ackerman
Patricia C. Ackerman
Borough Secretary

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

Patricia C. Ackerman
Patricia C. Ackerman
Borough Secretary

RESOLUTION
NO. 7-2004

WHEREAS, the Borough of Meyersdale has previously adopted a Zoning Ordinance; and

WHEREAS, it is necessary to set certain fees as a result of the adoption of said Zoning Ordinance; and

WHEREAS, it is the desire and intent of the Borough of Meyersdale to set zoning permit fees, occupancy permit fees, and zoning hearing fees.

BE IT RESOLVED this 14th day of September, 2004, as follows:

1. **ZONING PERMIT FEE:** All persons, firms, or corporations applying for a zoning permit under the provisions of the Zoning Ordinance of the Borough of Meyersdale shall be required to pay the fee of **\$35.00**.

2. **OCCUPANCY PERMIT FEE:** All persons, firms, or corporations applying for an occupancy permit under the provisions of the Zoning Ordinance of the Borough of Meyersdale shall be required to pay the fee of **\$15.00**.

3. **ZONING HEARING FEES:** All persons, firms, or corporations applying for a hearing under the provisions of the Zoning Ordinance of the Borough of Meyersdale, or applying for an amendment to the Zoning Ordinance or a change in the classification of a district or a portion thereof, shall be required to pay a fee to cover the actual costs for the Zoning Hearing Board or Borough Council hearing.

Charges shall include stenographic costs, publication of notice costs, administrative costs, and other costs incidental to the hearing with an estimated cost for 2004 of between **\$350.00** and **\$500.00**, depending on the nature of the hearing.

APPENDIX
THE SIGNATURE PAGE

This ordinance was enacted by the Borough Council of Meyersdale on OCTOBER 9, 2001,
and shall take effect from that date.

President of Meyersdale Borough Council

Attested to by

Patricia C. Ackerman
Secretary of the Borough of Meyersdale

I hereby certify that the foregoing Ordinance was advertised in the New Republic, August 30, 2001, 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 9, 2001.

Patricia C. Ackerman
Patricia C. Ackerman
Borough Secretary

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

Patricia C. Ackerman
Patricia C. Ackerman
Borough Secretary

**RESOLUTION
NO. 2-2005**

WHEREAS, the Borough of Meyersdale has previously adopted a Zoning Ordinance; and

WHEREAS, it is necessary to set certain fees as a result of the adoption of said Zoning Ordinance; and

WHEREAS, it is the desire and intent of the Borough of Meyersdale to revise permit fees for Special Zoning Permit Fees - for sheds, fences and simple signs; and

WHEREAS, it is the desire and intent of the Borough of Meyersdale to revise permit fees for Single Day Temporary Use Zoning Permit Fees; and

BE IT RESOLVED this 16th. day of May, 2005 the revision shall be as follows:

1. SPECIAL ZONING PERMIT FEES:

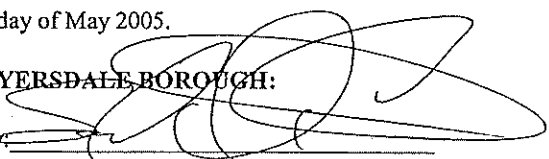
All persons, firms, or corporations applying for a Special Zoning Permit fee for a shed, fence or simple sign under the provisions of the Zoning Ordinance of the Borough of Meyersdale shall pay the reduced fee of \$15 provided that the shed, fence or sign meets the criteria defined by the Meyersdale Planning Committee. If the criteria cannot be met the applicant shall pay the standard Zoning Permit Fee.

2. SINGLE DAY TEMPORARY USE ZONING PERMIT FEES:

All persons, firms, or corporations applying for a Temporary Use Zoning permit under the provisions of the Zoning Ordinance of the Borough of Meyersdale shall pay the reduced fee of \$10 provided that the event meets the criteria set by the Meyersdale Planning Committee. If the specified use does not meet the criteria for a Single Day Temporary Use, the applicant shall pay the Temporary Use Zoning Permit Fee to be set in accordance with the Zoning Ordinance of the Borough of Meyersdale.

MADE AND ENTERED INTO this 16th. day of May 2005.

MEYERSDALE BOROUGH:

By: 
President

ATTEST:


Secretary

Read and approved by: , Mayor

**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.

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

ATTEST:

MEYERSDALE BOROUGH COUNCIL

Patricia C. Ackerman
Secretary
(Seal)

Franklin 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

**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:

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 <i>Article 3, "Special Exceptions and Conditional Uses."</i>

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 H. 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

