

# Chapter 61 - Zoning

[History: Adopted by the Council of the Borough of Northumberland on 3-13-71.  
Amended 5-7-91, other amendments noted where applicable.]

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## ARTICLE I

### SHORT TITLE, PURPOSE AND COMMUNITY DEVELOPMENT OBJECTIVES

#### *Section 1.01 - Short Title*

This Ordinance shall be known as the "Northumberland Borough Zoning Ordinance".

#### *Section 1.02 - Purpose*

The fundamental purpose of this Ordinance is to promote the safety, health, morals and general welfare; to encourage the most appropriate use of land throughout the Borough; to conserve and stabilize the value of property; to prevent over-crowding of land and buildings; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate open space for light and air; and to facilitate the adequate provision of streets and highways, water, sewerage, drainage and other public facilities; to conserve life, property and natural resources and to conserve the expenditure of funds earmarked for public improvements.

#### *Section 1.03 - Community Development Objectives*

This Zoning Ordinance is to render a legal basis and framework to the future land use plan and development goals established in the planning studies undertaken by the Northumberland Borough Planning Commission. The objectives of guiding future growth and improvement of existing development within the Borough of Northumberland are to enable the most economical and efficient provision of municipal services; eliminate hazardous and detrimental land uses while encouraging beneficial and compatible land uses; maintain a desirable residential environment with adequate recreational, commercial and industrial supporting areas; protect and conserve open spaces, and in general, avoid the problems of random development inconsistent with Borough-wide goals and objectives.

## ARTICLE II

### DEFINITIONS

For the purpose of this Ordinance, certain words, phrases and terms are herewith defined as follows: Words used in the present tense include the future. The singular number includes the plural number, and words in the plural number include the singular number. The word "lot" includes the word "plot;" the word "building" includes the word "structure;" the word "zone" includes the word "district;" the word "occupied" includes the word "designed" and the phrase "intended to be occupied;" the word "use" includes the words "arranged," "designed," and the phrase "intended to be used;" the word "shall" is always mandatory.

#### *Accessory Use or Building*

A subordinate use or building, the purpose of which is customarily incidental to that of the main use or building and on the same lot.

***Alterations***

Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as “altered” or “reconstructed”.

***Alley***

A minor right-of-way used primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

***Borough Council***

The council of the Borough of Northumberland.

***Building***

Any structure having a roof supported by columns, piers or walls, including tents, lunch wagons, trailers, dining cars, camp cars or other structures on wheels or having other supports and any unroofed platform, terrace or porch having a vertical face higher than three (3) feet above the level of the ground from which the height of the building is measured.

***Building Area***

The total areas of outside dimensions on a horizontal plane at ground level of the principal building and all accessory buildings.

***Building Height***

The vertical dimensions measured from the average elevation of the finished lot grade at the front of the building to the highest point of the ceiling of the top story in the case of a flat roof; to the deck-line of a mansard roof; and to the average height between the plate and ridge of a gable, hip or gambrel roof.

***Building Line***

A line formed by the intersection of a horizontal plane at average grade level and a vertical plane that coincides with the exterior surface of the building on any side. In case of a cantilevered or projected section of a building, the vertical plane will coincide with the most projected surface. All yard requirements are measured to the building line.

***Certificate of Occupancy***

A certificate issued and enforced by the Zoning Officer upon completion of the construction of a new building or upon a change or conversion of the structure or use of a building which certifies that all requirements and regulations as provided herein and within all other applicable requirements have been complied with.

***Decision***

Final adjudication of the Zoning hearing Board, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the Court of Common Pleas of Northumberland County and the judicial district wherein the Borough lies.

***Determination***

Final action by an officer, body or agency charged with the administration of this Ordinance or applications thereunder, except Borough Council and the Zoning Hearing Board.

***Development Plan***

The provisions for the development of a planned residential development, including a plat subdivision; all covenants related to use, location and bulk of buildings and other structures; intensity of use or density of development; streets, ways and parking facilities; common open space; and public facilities.

***Dwelling Unit***

One or more rooms providing living and sanitary facilities for one (1) family, including equipment for cooking or provisions for same.

***Dwelling, Apartment***

A dwelling unit for rent or lease within multiple family buildings providing living and sanitary facilities for one (1) family, including provisions for cooking and sleeping. An apartment dwelling may be classified as an efficiency unit where no specific bedroom is provided or it may contain one or more bedrooms.

***Dwelling, Single Family***

A detached building designed for or occupied exclusively by one (1) family.

***Dwelling, Two Family***

A building designed for or occupied exclusively by two (2) families living independently of each other.

***Dwelling, Multiple Family***

A building designed for or occupied exclusively by three (3) or more families living independently of each other.

***Family***

A single individual, doing his own cooking and living upon the premises as a separate housekeeping unit or a collective body of persons, doing their own cooking and living together upon the premises as a separate housekeeping unit, in a domestic relationship based upon birth, marriage or other domestic bond.

***Floor Area***

A total enclosed area in the horizontal plane of a structure measured from the faces of the exterior walls.

***Garage, Private***

A building or space used as an accessory to the main building which provides for the storage of motor vehicles of the families residing upon the premises and in which no occupation, business or service for profit is carried on.

***Habitable Floor Area***

The sum of the gross horizontal interior areas of all room used for habitation, such as living room, dining room, kitchen or bedroom, but not including hallways, stairways, cellars, attics, service rooms or utility rooms, bathrooms, closets or unheated areas such as enclosed porches or rooms without at least one window or skylight opening onto an outside yard or court. At least one-half (1/2) of the floor area of every habitable room shall have a ceiling height of not less than seven (7) feet and the floor area of that part of any room where the ceiling height is less than five (5) feet shall not be considered part of the habitable floor area.

***Hearing***

An administrative proceeding conducted by the Zoning Hearing Board pursuant to this Ordinance.

***Home Occupation***

An accessory use of a service nature customarily conducted within a dwelling by the residents thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change

the character thereof. Beauty shops, barber shops, hair dressing and manicuring establishments, tea rooms and tourist homes shall not be deemed to be home occupations.

***Hotel***

A building containing rooms intended or designed to be used or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests and where only a general kitchen and dining room are provided within the building as an accessory use.

***Junk Yard***

Any area and/or structure used primarily for the collecting, storage and sale of waste paper, rags, scrap metal or discarded material and for the collecting, dismantling, storage and salvaging of machinery or vehicles primarily not in running condition and for the sale of parts thereof.

***Lot***

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

***Lot Area***

An area of land, which is, determined by the bounds of the lot lines bounding that area.

***Lot, Corner***

A parcel of land at the junction of and fronting or abutting on two or more intersecting streets.

***Lot Coverage***

The percentage of the lot area covered by the total building area.

***Lot Depth***

A mean horizontal distance between the front and rear lot lines measured in the general direction of its side lot lines.

***Lot Width***

The mean horizontal distance between the side lot lines measured at right angles to its depth. Required lot width (See Schedule) shall be measured at the most forward allowable building line or setback line; however, the mean lot width shall not be less than the required lot width.

***Mobile Home***

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

***Mobile Home Lot***

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

***Mobile Home Park***

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

***Motel***

A building or group of buildings, whether detached or connected units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and provided with accessory off-street parking facilities. The term “motel” includes buildings designed as tourist centers, motor lodges, auto courts and other similar designations but shall not be construed to include mobile or immobile trailers or homes.

***Nonconforming Lot***

A lot the area or dimension of which was lawful prior to the adoption or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which is located by reasons of such adoption or amendment.

***Nonconforming Structure***

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

***Nonconforming Use***

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

***Parking Space***

An off-street space available for the parking of a motor vehicle and which, in this Ordinance, is held to be an area ten (10) feet wide and twenty (20) feet long, exclusive of passageways and driveways appurtenant thereto and giving access thereto.

***Planned Residential Development***

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

***Planning Code***

The Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended.

***Principal Building***

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

***Professional Home Occupation***

The office or Studio of a resident physician, surgeon, dentist, lawyer, architect, artist, engineer, certified public accountant, real estate broker or salesman, insurance broker or agent, musician teacher as herein restricted; provided that no more than two (2) persons employed who are not members of the family and that such office shall be in the main building and shall not occupy more than the equivalent of one-half (1/2) of the area of one (1) floor of said building. For the purposes of this section, a "teacher" shall be restricted to a person giving individual instruction on a musical instrument, in singing or in academic or scientific subjects to a single pupil at a time. A professional home occupation shall not include the office of any person

professionally engaged in the purchase or sale of economic goods. Tea rooms, tourist homes, beauty parlors, barber shops, hairdressing and manicuring establishments, convalescent homes, mortuary establishments and stores, trades or businesses of any kind not herein excepted shall not be deemed to be home professional offices. The home professional office of a physician shall not include a biological or other medical testing laboratory.

***Professional Office***

The office of a member of a recognized profession, as hereinafter indicated, when conducted on a residential property shall be conducted by a member or members of the residential family entirely within a residential building and shall include only the offices of doctors, ministers, architects, professional engineers, lawyers and such similar professional occupations which may be so designated by the Zoning hearing Board, upon finding by such Board that such occupation is truly professional in character by virtue of the need for similar training and experience as a condition for the practice thereof and that the practice of such occupation shall in no way adversely affect the safe and comfortable enjoyment of property rights in any zone in which it is located to a greater extent than for the professional activities listed herein. The issuance of a State or local license or regulation of any gainful occupation need not be deemed indicative of professional standing.

***Public Hearing***

A formal meeting held pursuant to public notice by Borough Council or the Zoning Hearing Board, intended to inform and obtain public comment, prior to taking action in accordance with this Ordinance.

***Public Meeting***

A forum held pursuant to notice under the act on July 3, 1966 (P.L. 368, No. 84), known as the “Sunshine Act”.

***Public Notice***

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

***Setback***

The setback of a building from a particular lot line is the horizontal distance from such lot line to the part of the building nearest to such lot line.

***Sign***

Any device, structure or object for visual communication that is used for the purpose of bringing the subject thereof to the attention of others but not including any flag, badge or insignia of any public quasi-public, civic, charitable or religious group.

***Sign, Commercial***

Any sign owned or operated by any person, firm or corporation engaged in the business of outdoor advertising for direct profit gained from the rental of such signs or any sign advertising a commodity not sold or produced on the premises. This shall include “billboards” and off-premises signs indicating the directions to a particular place.

***Sign Area***

The area defined by the frame or edge of a sign. Where there is no frame or edge to the sign, the area shall be defined by a projected, enclosed, four-sided (straight sides) geometric shape which most closely outlines the said sign.

***Site Plan***

A plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, rights-of-way, boundaries, all essential dimensions and bearings and any other information deemed necessary by the Zoning Hearing Board In unusual or special cases.

***Story***

A story is that part of a building between the surface of any floor and the next floor above it or, in its absence, then the finished ceiling or roof above it. A “split level” story shall be considered a second story if its floor level is six (6) feet or more above tile level of the line of tile finished floor next below it. Any floor under a sloping roof at the top of a building which is more than two (2) feet below the top plate shall be counted as a story; and, if less than two (2) feet below the top plate, it shall be counted as a half-story. A basement shall be counted as a story if it averages more than five (5) feet above grade.

***Street***

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

***Street Line***

The street line is that line determining tile limit of the street or highway right of the public, either existing or contemplated. Where a definite right-of-way width has not been established, the street line shall be assumed to be at a point twenty-five (25) feet from the centerline of the existing street.

***Structure***

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

***Travel Trailer***

A vehicular portable structure built on a chassis (pick-up camper, converted bus, tent-trailer, tent or similar device) designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight (8) feet.

***Travel Trailer Camp or Park***

Any site, lot or tract of land upon which provisions are made to accommodate any travel trailer and/or similar temporary dwelling for travel or recreational purposes for short term occupancy, either free of charge or for revenue purposes, and shall include any appurtenant facilities used or designed as part of the equipment of such travel trailer camp or park.

***Use***

The specific purpose, for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained.

***Variance***

Relief granted pursuant to the provisions of Article XVI of this Ordinance.

***Vehicle Service Facilities***

A building or lot or part thereof used for the service or maintenance of motor vehicles, including automobile filling stations, repair body shops and body shops.

***Yard, Front***

An open, unoccupied space on the same lot with the principal building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of that lot. The depth of the front yard shall be measured at right angles to the street line.

***Yard, Rear***

A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of any building. The depth of a rear yard shall be measured at right angles to the rear line of the lot or, if the lot is not rectangular, then in the general direction of its side lot lines.

***Yard, Side***

An open, unoccupied space between the side line of the lot and the nearest line of the building and extending from the front yard to the rear yard or, in the absence of either such yards, to the street or rear lot lines, as the case may be. The width of a side yard shall be measured at right angles to the sideline of the lot.

***Zoning Hearing Board***

The board appointed by Northumberland Borough Council with jurisdiction under this Ordinance to render decisions.

***Zoning Officer***

The duly constituted municipal office designated to administer and enforce this Ordinance. The Zoning Officer shall administer the Zoning Ordinance in accordance with its literal terms. The Zoning Officer may be the Building Inspector and serve both offices of the Borough.

***Zoning Permit***

A permit stating that the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements under this Ordinance for the zone in which it is located or is to be located.

## **ARTICLE III**

### **ESTABLISHMENT OF ZONING DISTRICTS AND MAP**

***Section 3.01 - Zoning Districts***

A. The following types of zoning districts are hereby established for the Borough of Northumberland:

1. R-1 Residential Districts
2. R-2 Residential Districts
3. R-3 Residential Districts
4. HC highway Commercial Districts
5. CBD Commercial Business Districts
6. I Industrial Districts
7. OS Open Space/ Recreation Districts
8. H Historic Districts (overlying area).

B. The zoning districts of the Borough of Northumberland are as follows:

1. R-1 Residential District  
Beginning at the intersection of the center line of Prince Street and the center line of Front Street; thence northeastwardly along the center line of Front Street to the point of intersection with Old Route 11; thence northeastwardly along the center line of Old Route 11 to the Borough line;

thence along said Borough line the following five courses and distances: (1) N. 44° 53' 44" W. a distance of 2,473.31 feet; (2) S. 82° 47' 33" W. a distance of 2,847.82 feet; (3) S. 45° 06' 16" W. a distance of 341.72 feet; (4) N. 44° 53' 44" W. a distance of 264 feet; (5) S. 45° 12' 08" W. to a point of intersection of the southwestern line of Vista Avenue if Vista Avenue were extended west; thence southeastwardly along the southwestern line of Vista Avenue if extended to a point in the center line of Seventh Street (unopened); thence southwestwardly along the center line of Seventh Street (unopened) to a point in the center line of Prince Street; thence southeastwardly along the center line of Prince Street to the center line of Front Street, the place of beginning.

2. R-2 Residential District

Beginning at a point in the intersection of the center line of Prince Street and the center line of Front Street; thence northeastwardly along the center line of Front Street to the center line of C Street; thence southeastwardly along the center line of C Street to the center line of Water Street; thence southwestwardly along the center line of Water Street to the center line of Lackawanna Avenue; thence southeastwardly as if center of Lackawanna Avenue were extended to the center line of the North Shore Railroad; thence southwestwardly along the center line of the railroad to the center line of Queen Street; thence northwestwardly along the center line of Queen Street to the center line of Depot Avenue; thence northeastwardly along the center line of Depot Avenue to the center line of King Street; thence northwestwardly along the center line of King Street to the center line of the private alley west of the Methodist Church; thence southwestwardly along the center line of said private alley to the center line of Wheatley Avenue; thence northwestwardly along the center line of Wheatley Avenue to the center line of Church Avenue; thence southwestwardly along the center line of Church Avenue to a point in the center line of Duke Street; thence northwestwardly along the center line of Duke Street to the center line of Fifth Street; thence southwestwardly along the center line of Fifth Street to the center line of West Way Avenue; thence along the center line of West Way Avenue to the northwest Borough boundary line; thence along the said Borough boundary line the following three courses and distances; (1) North forty-five degrees six minutes sixteen seconds East (N. 45° 06' 16" E.) through Eighth Street a distance of one thousand five hundred fifty-one (1,551) feet, more or less, to a point in Orange Street, (2) North forty-four degrees fifty-three minutes forty-four seconds West (N. 44° 53' 44" W.) through Orange Street a distance of two hundred sixty-four (264) feet to a point, (3) North forty-five degrees twelve minutes eight seconds East (N. 45° 12' 08" E.) a distance of approximately 1990 feet to the point of intersection with the center line of Vista Avenue if Vista Avenue were extended northwestwardly; thence southeastwardly along the southwestern line of Vista Avenue, if extended, to a point in the center line of Seventh Street (unopened); thence southwestwardly along the center line of Seventh Street (unopened) to a point in the center line of Prince Street; thence southeastwardly along the center line of Prince Street to the center line of Front Street, the place of beginning.

3. R-3 Residential District

Beginning at a point in the intersection of the center line of Water Street and the center line of Lackawanna Avenue; thence northeastwardly along the center line of Water Street to a point opposite the southwestern line of land of Norry Welding Co.; thence southeastwardly along said line of Norry Welding Co. a distance of 300 feet, more or less, to the center line of the unopened extension of Priestley Avenue; thence northeastwardly on a curve to the left along the center line of unopened Priestley Avenue a distance of 300 feet, more or less, to the northeast line of Priestley Commons; thence southeastwardly along said line of Priestley Commons to the center line of the North Shore Railroad; thence southwestwardly along the center line of said North Shore Railroad to the center line of Lackawanna Avenue if it were extended southeastward; thence northwestwardly along the center line of Lackawanna Avenue, if extended, to a point in the center line of Water Street, the place of beginning.

4. Highway Commercial Districts

- a. District 1: Beginning at a point in the southeastern line of Front Street in the line of land now or formerly of Keystone Forge, said point being 135 feet, more or less, southwest of the center line of Duke Street; thence northwestwardly in a line parallel to Duke Street, to a point in the center line of Fourth Street; thence southwestwardly along the center line of Fourth Street to the center line of West Way Avenue a/k/a Penn Street; thence northwestwardly along the center line of West Way Avenue to a point in the center line of Fifth Street; thence northeastwardly along the center line of Fifth Street to the center line of Duke Street; thence southeastwardly along the center line of Duke Street to the southeastern line of Front Street; thence southwestwardly along the southeastern line of Front Street 135 feet, more or less to the place of beginning.
- b. District 2: Beginning at the intersection of the center line of Water Street and the center line of Queen Street; thence southwestwardly along the center line of Water Street to the center line of the North Shore Railroad line; thence northeastwardly along the center of said railroad on a curve to the left to the point of intersection of the center line of Queen Street: thence northwestwardly along the center line of Queen Street to the center line of Water Street, the place of beginning.
- c. District 3: The area bounded on the southwest by the center line of “C” Street; on the northwest by the center lines of Front Street and Old Route 11; on the northeast by the Borough boundary line; on the southeast by the center lines of US Route 11 and Water Street.

5. CBD Commercial Business District

Beginning at the intersection of the center line of Depot Avenue and the center line of Queen Street; thence northeastwardly along the center line of Depot Avenue to the center line of King Street; thence northwestwardly along the center line of King Street to the center line of the private alley west of the Methodist Church; thence southwestwardly along the center line of said private alley to the center line of Wheatley Avenue; thence northwestwardly along the center line of Wheatley Avenue to the center line of Church Avenue; thence southwestwardly along the center line of Church Avenue to a point in the center line of Duke Street; thence southeastwardly along the center line of Duke Street to the southeastern line of Front Street; thence southwestwardly along the southeastern line of Front Street to the center line of the railroad leading to Danville; thence southeastwardly along the center of said railroad line to the center line of Water Street; thence northeastwardly along the center line of Water Street to the center line of Queen Street; thence northwestwardly along the center line of Queen Street to the center line of Depot Avenue, the place of beginning.

6. Industrial Districts

- a. District 1: Beginning at a point in the southeastern line of front Street, said point being 135 feet, more or less, southwest of the center line of Duke Street: thence northwestwardly in a line parallel to Duke Street, to a point in the center line of Fourth Street: thence southwestwardly along the center line of Fourth Street to the center line of West Way Avenue a/k/a Penn Street; thence northwestwardly along the center line of West Way Avenue to the northwest Borough boundary line: thence S. 45° 06' 16" W. approximately 1,150 feet to the center line of the railroad line nearest the Susquehanna River; thence southeastwardly along the center line of said railroad line to the point of intersection of the southeastern line of front Street if front Street were extended southwestward; thence northeastwardly along the southeastern line of Front Street, if extended, to the place of beginning.
- b. District 2: Beginning at a point in the centerline of Water Street opposite the southwestern line of land of Norry Welding Co.: thence northeastwardly along the center line of Water Street and U.S. Route 11 to the northeastern Borough boundary line; thence southeastwardly along said boundary line to the center line of the North Shore Railroad line; thence

southwestwardly along the center line of said railroad line to a point in the northeast line of Priestley Commons; thence northwestwardly along the northeast line of Priestley Commons to the center line of unopened Priestley Avenue; thence southwestwardly along the said center line of unopened Priestley Avenue to the southwestern line of Norry Welding Co.; thence northwestwardly along said line of Norry Welding Co. to the place of beginning.

7. Open Space Districts

a. District 1: Beginning at the intersection of the center line of Water Street and the center line of the railroad leading to Danville; thence northwestwardly along center Of said railroad line to the southeastern line of Front Street; thence southwestwardly along the southeastern line of Front Street, if it were extended southwestwardly, to the center line of the rail road line nearest to the west branch of the Susquehanna River; thence northwestwardly along the center line of said railroad to the boundary line of the Borough; thence southwestwardly along said boundary line to the low water mark of the west branch of the Susquehanna River; thence southeastwardly along said low water mark of the River to the center line of Water Street; thence northeastwardly along the center line of Water Street to the center line of the railroad leading to Danville, the place of beginning.

b. District 2: Beginning at the intersection of the center line of Water Street and the center line of the railroad leading to Danville, known as the North Shore Railroad line; thence northeastwardly along the center of said railroad line to the boundary line of the Borough; thence southeastwardly along said boundary line to the low water mark of the north branch of the Susquehanna River; thence southwestwardly along said low water mark of the River to the point of intersection with the west branch of the Susquehanna River; thence northwestwardly along the low water mark of the said west branch of the Susquehanna River to a point in the center line of Water Street; thence northeastwardly along the center line of Water Street to the place of beginning.

8. H Historic District (overlying area)

Beginning at the center line of the North Shore Railroad at a point 200 feet, more or less, southwest of the southwestern line of Queen Street; thence northeastwardly along the center of the North Shore Railroad line to the center line of Hanover Street; thence northeastwardly along the center line of Hanover Street to the center line of Priestley Avenue; thence southwestwardly along the center line of Priestley Avenue to the center line of Orange Street; thence northwestwardly along the center line of Orange Street to the Center line of Toulman Avenue; thence northeastwardly along the center line of Toulman Avenue to the center line of A Street; thence northwestwardly along the center line of A Street to the center line of Front Street; thence southwestwardly along the center line of Front Street to the center line of North Avenue: thence northwestwardly along the center line of North Avenue to the center line of Perk Avenue; thence southwestwardly along the center line of Park Avenue to the center line of Sheetz Avenue; thence northwestwardly along the center line of Sheetz Avenue to the center line of Fourth Street; thence southwestwardly along the center line of Fourth Street to Wheatley Avenue; thence southeastwardly along the center line of Wheatley Avenue to the center line of Water Street; thence southwestwardly along the center line of Water Street to a point 200 feet, more or less, southwest of the southwesterly line of Queen Street; thence in a southeasterly direction to the place of beginning.

***Section 3.02 - Zoning Map***

The boundaries of the above districts as delineated on a map shall constitute the "Northumberland Borough Zoning Map".

***Section 3.03 - Interpretation of District Boundaries***

Where uncertainty exists as to the boundaries of the districts shown on the Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed as following such centerlines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following municipality limits shall be construed as following such municipality limits.
- D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- E. Boundaries indicated as following shore lines shall be construed to follow such shore lines and, in the event of a change in the shore line, shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of streams, rivers or other bodies of water shall be construed as following such centerlines.
- F. Boundaries indicated as parallel to or extensions of features indicated in Sub-sections A through E above shall be so construed. Distances not specifically indicated on the official Zoning Map shall be determined by the scale of the map.
- G. Where physical or cultural features existing on the ground are at variance with those shown on the official Zoning Map or in circumstances not covered by Sub-sections A through E above, the Zoning hearing Board shall interpret the district boundaries.

***Section 3.04 - District Application to Newly Annexed Territory to the Borough***

Newly annexed territory to the Borough shall automatically be construed to be located within the R-1 Residential District, subject to application for amendment and public hearing, unless otherwise indicated in the approved petition for annexation.

## **ARTICLE IV**

### **CONFORMANCE REQUIRED**

***Section 4.01 - Application of District Regulations***

The regulations set forth by this Ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

- A. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all the regulations herein specified for the district in which it is located. No residential lot shall have erected upon it more than one (1) principal building.
- B. No building or other structure shall hereafter be erected or altered:
  - 1. To exceed the height;
  - 2. To accommodate or house a greater number of families;
  - 3. To occupy a greater percentage of lot area; or

4. To have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required or in any other manner contrary to the provisions of this Ordinance.
- C. No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.
- D. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

## ARTICLE V

### R-1 - RESIDENTIAL DISTRICTS

#### *Section 5.01 - Intended Purpose*

The R-1 Residential Districts are composed of low density residential areas of the Borough, plus certain open areas where similar residential development appears likely to occur. The regulations for these districts are designed to stabilize and protect the essential characteristics of the area, protect the amenities of certain areas of the Borough where the pattern has already been established with single family development on relatively large lots and promote and encourage a suitable environment for family life. To these ends, development is restricted to conventional low density single-family detached dwellings and related land uses.

#### *Section 5.02 - Permitted Uses*

- A. Single family dwellings.
- B. Public nursery, kindergarten, elementary and high school
- C. Churches and similar places of worship.
- D. Public parks, playgrounds and open space.
- E. General gardening and the growing of trees and nursery stock; not including roadside displays or commercial signs.
- F. Public libraries, community activity and municipal buildings.
- G. Customary accessory uses and buildings incidental to any of the above permitted uses, including:
  1. Private garages.
  2. Garden houses, tool houses, playhouses or greenhouses not used for commercial purposes.
  3. Professional offices and home occupations, provided there is no external evidence of such uses except an announcement sign not over two (2) square feet in area, that not more than fifty (50) percent of the total floor area is used for such purposes and that not more than two (2) persons other than members of the immediate family are employed.
  4. Signs, as provided in Section 13.08 of this Ordinance.
- H. Planned Residential Development: subject to the provisions of Article XIV.
- I. The following special exceptions, upon the issuance of a permit by the Zoning Hearing Board as provided for in Section 16.081 of this Ordinance.

1. Private nursery, elementary, high schools and institutions of higher education; providing, however, that the lot upon which located contains a minimum of one (1) acre plus five hundred (500) square feet of land per pupil.
2. Recreational areas and structures operated by membership clubs for the benefit of their members and not for gain, providing that the residential character of the neighborhood is preserved so as to in no way give the impression of a commercial use.
3. Cemeteries.
4. Multiple dwelling and apartments, subject to the controls set forth herein for planned residential developments (Article XIV).
5. Necessary public utility structures and buildings, providing that they do not include materials storage, storage for trucks, repair facilities or housing quarters for repair crews.

**Section 5.03 - Lot Area, Building Height and Yard Requirements**

A. Lot Regulations

A lot width, lot area and setbacks of not less than the dimensions shown in the following table shall be provided for every dwelling unit and/or principal non-residential building hereafter erected or altered for any use permitted in this district.

Public Utilities	Lot Requirements			Yard Requirements			
	Minimum Lot Area (Sq. Ft.)	Minimum Lot Width	Maximum Lot Cover (%)	Front	One Side	Total Sides	Rear
None	18,000	150'	20%	30'	30'	60'	30'
Either Public Water or Sewer	12,000	100'	25%	30'	15'	30'	25'
Both Public Water and Sewer	9,000	75'	25%	30'	10'	20'	25'

B. Building Height

No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height unless authorized as a special exception.

**Section 5.04 - Minimum Off-Street Parking Requirements**

Off-street parking shall be provided in accordance with Section 13.07 of this Ordinance.

**Section 5.05 - Habitable Floor Area**

- A. The minimum habitable floor area of any new dwelling hereafter utilized, with the exception of buildings containing four (4) or more dwelling units, shall be seven hundred (700) square feet.
- B. Multiple family and apartment dwelling units in buildings containing four (4) or more dwelling units shall have a floor area of not less than that listed below and in no case shall the floor area ratio (total floor area divided by the lot area) exceed 2.0. Providing further that there shall be not less than six hundred twenty-five (625) square feet of land area per dwelling unit.

<u>Floor Area</u>	<u># of Bedrooms per Dwelling Unit</u>
500 sq. ft.	0
600 sq. ft.	1
800 sq. ft.	2
1,000 sq. ft.	3

## ARTICLE VI

### R-2 - RESIDENTIAL DISTRICTS

#### *Section 6.01 - Intended Purpose*

The R-2 Residential Districts are composed of certain medium density residential areas of the Borough representing a compatible mingling of one (1) or two (2) family dwellings, plus certain open areas where similar residential development appears likely to occur. The regulations for these districts are designed to stabilize and protect the essential characteristics of the district and promote and encourage a suitable environment for family life. To these ends, development is limited to medium density concentration, permitting primarily single and two (2) family dwellings.

#### *Section 6.02 - Permitted Uses*

- A. Uses permitted in the R-1 Residential Districts, subject to the regulations of the R-2 Residential Districts.
- B. Two family attached or semi-detached dwellings.
- C. Customary accessory uses and buildings incidental to any of the above permitted uses, including those specified in the R-1 Districts.
- D. The following special exception uses, upon the issuance of a permit by the Zoning Hearing Board as provided for in Section 16.08.I of this Ordinance.
  1. Special exceptions specified in R-1 Districts.
  2. ~~Conversion apartment dwellings, subject to the limitations of minimum lot and habitable floor requirements (Section 13.09).~~ Deleted per Ordinance 2003-5.
  3. Clinics and nursing homes, providing that the care of drug addicts, chronic alcoholics or persons suffering from insanity or diseases requiring isolation are not included.
  4. Professional offices.
  5. Mobile home parks and subdivisions, provided that each mobile home park and extension thereof shall conform to the following requirements.
    - a. The minimum mobile home park or subdivision tract shall be not less than five (5) acres, in area.
    - b. A minimum of five thousand (5,000) square feet shall be provided for each mobile home unit stand.
    - c. There shall not be more than seven (7) mobile home unit stands per net acres of land use.
    - d. Side yard distances measured from outside of each mobile home unit-to-unit lot line shall not be less than thirty (30) feet in total and no one (1) side yard distance less than twelve (12) feet.

- e. Front and rear yards shall not be less than ten (10) feet.
  - f. A minimum of thirty (30) feet shall be maintained between any two (2) mobile home units.
  - g. All applications for a mobile home park or subdivision shall be accompanied by a plot plan showing the location of the site, topography, drainage, number of units, access road layout, name and address of owner and names of abutting owners.
  - h. Provisions must be made to connect each mobile home unit to a municipal type water and sanitary sewer system, as approved by the Pennsylvania Department of Health.
  - i. Conformance is required to any applicable local and State regulations governing mobile home parks.
- 6. Funeral homes.
  - 7. Rooming houses and tourist homes.
  - 8. Group Homes, provided that such homes meet the following conditions:
    - a. No more than three (3) such homes shall be located in the R-2 District.
    - b. The homes shall be only for the mentally and physically handicapped; approval for all other types of group homes shall be required by the Planning Commission and Borough Council
    - c. Occupancy in the group home shall not exceed five (5) persons and shall provide proper supervision as defined by State and Public Agencies.
    - d. A permit shall be required for the operation of all such homes.
    - e. No two (2) group homes shall be located within the same block or within two (2) blocks of one another along the same street.

**Section 6.03 - Lot Area, Building Height and Yard Requirements**

**A. Lot Regulations**

A lot width, lot area and setback of not less than the dimensions shown in the following table shall be provided for every dwelling unit and/or principal non-residential building hereafter erected or altered for any use permitted in this district.

Public Utilities	Lot Requirements			Yard Requirements			
	Minimum Area (Sq. Ft.)	Minimum Lot Width	Maximum Lot Cover. (%)	Front	One Side	Total Sides	Rear
None	10,000	100'	25%	25'	15'	30'	30'
Either Public Water or Sewer	8,000	80'	30%	25'	10'	25'	25'
Both Public Water and Sewer	6,000	60'	35%	25'	8'	20'	20'

\* All setback requirements may be adjusted in built-up areas to coincide with the average setbacks of existing buildings in the general vicinity

**B. Building Height**

No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height unless authorized as a special exception.

**Section 6.04 - Minimum Off-Street Parking Requirements**

Off-street parking shall be provided in accordance with Section 13.07 of this Ordinance.

**Section 6.05 - Habitable Floor Area**

- A. The minimum habitable floor area of any new dwelling unit hereafter utilized, with the exception of apartment buildings containing four (4) or more dwelling units, shall be seven hundred (700) square feet.
- B. Multiple family and apartment dwelling units in buildings containing four (4) or more dwelling units shall have a floor area of not less than that listed below and in no case shall the floor area ratio (total floor area divided by the lot area) exceed 2.0. Providing further that there shall be not less than six hundred twenty-five (625) square feet of land area per dwelling unit.

Floor Area	# of Bedrooms per Dwelling Unit
500 sq. ft.	0
600 sq. ft.	1
800 sq. ft.	2
1,000 sq. ft.	3

**ARTICLE VII**

**R-3 - RESIDENTIAL DISTRICTS**

**Section 7.01 - Intended Purpose**

The regulations for these districts are designed to accommodate high density development in areas conducive to this type of development in terms of location, accessibility, availability of sewer and water facilities, existing development patterns and anticipated growth trends.

**Section 7.02 - Permitted Uses**

- A. Uses permitted in the R-2 Residential Districts, subject to the regulations of the R-3 Residential Districts.
- B. Multiple family apartment dwellings, townhouses, and condominiums.
- C. Customary accessory uses and buildings incidental to the above permitted uses, including those specified in the R-2 Districts.
- D. The following special exception uses, upon the issuance of a permit by the Zoning Hearing Board as provided for in this Ordinance (Section 16.08 I).
  - 1. Special exceptions as specified in the R-2 Districts.
  - 2. The provision of incidental service stores (such as news, cigar or candy counter sales, delicatessens; restaurants; personal service shops; and similar uses).
  - 3. Conversion apartment dwellings, subject to the limitations of minimum lot and habitable floor (Section 13.09) and parking (Section 6.04) requirements. [Added 11-5-03 by Ord. 2003-5]

**Section 7.03 - Lot Area, Building Height and Yard Requirements**

- A. Lot Regulations

1. A lot width, lot area and setback of not less than the dimensions shown on the following table shall be provided for every dwelling unit and/or principal non-residential building hereafter erected or altered for any use permitted in the district.

Type Of Dwelling	Lot Requirements			Yard Requirements			
	Minimum Lot Area (Sq. Ft.)	Minimum Lot Width	Max. Lot Cover. (%)	Front	One Side	Total Sides	Rear
Single and Two Family	3,000 **	30'	45%	25'	8'	20'	20'
Multiple Family	5,000 *	50'	60%	25'	20'	40'	25'

\* All setback requirements may be adjusted in built-up areas to coincide with the average setbacks of existing buildings in the general vicinity.

\*\* Per dwelling unit.

2. The minimum lot area per dwelling unit shall be not less than indicated below:

# of Dwelling Units Permitted	Lot Area Per Dwelling Unit (Sq. Ft.)
1	3,000
2	2,000
3 or more	1,600

**B. Building Height**

1. No principal building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height; and no accessory building shall exceed one (1) story or fifteen (15) feet in height, unless authorized as a special exception.
2. Multiple family dwellings and apartment dwelling structures may exceed thirty-five (35) feet in height when authorized as a special exception, providing that for every ten (10) feet in excess of thirty-five (35) feet or portion thereof there shall be added to each side setback an additional five (5) feet and providing the height does not exceed the fire fighting capacity of the Borough fire department.

**Section 7.04 - Minimum Off-Street Parking Requirements**

Off-street parking shall be provided in accordance with this Ordinance (Section 13.07)

**Section 7.05 - Habitable Floor Area**

- A. The minimum habitable floor area of any new dwelling unit hereafter utilized, with the exception of buildings containing four (4) or more dwelling units, shall be seven hundred (700) square feet.
- B. Multiple family and apartment dwelling units in buildings containing four (4) or more dwelling units shall have a floor area of not less than that listed below and in no case shall the floor area ratio (total floor area divided by the lot area) exceed 2.0. Providing further that there shall be not less than six hundred twenty-five (625) square feet of land area per dwelling unit.

Floor Area	# of Bedrooms per Dwelling Unit
500 sq. ft.	0
600 sq. ft.	1
800 sq. ft.	2
1,000 sq. ft.	3

## ARTICLE VIII

### HC - HIGHWAY/COMMERCIAL DISTRICTS

***Section 8.01 - Intended Purpose***

These districts are designed solely to serve the needs of the vehicular shopper, providing goods that meet the needs generally classified as convenience goods and services. Business activities are to be concentrated with a cluster or linear pattern with adequate parking and vehicular access.

***Section 8.02 - Permitted Uses***

A. Retail sales and services in a fully enclosed building.

1. Food market
2. Drug store
3. Bakery
4. Clothing
5. Shoe store
6. Restaurant, but not to include the drive-in type
7. Jewelry store
8. Gift shop, florist shop
9. Book store, stationery store
10. Radio, TV and music store
11. Variety store
12. Dry goods and notions store
13. Hardware store, sporting goods
14. Banking facilities.

B. Personal service shops which deal directly with consumers, offices and establishments, provided that each such use occupies a total floor area of not more than four thousand (4,000) square feet.

1. Barber and beauty shops
2. Dry cleaning and laundry pick-up shops
3. Tailors and dressmaker shops
4. Self-service laundry
5. Real estate office and similar professional offices

6. Finance and loan agencies
  7. Medical and dental offices
- C. Adult entertainment or adult-oriented business providing the adult entertainment or adult-oriented business is not within one thousand (1000) feet measured in a straight line without regard to intervening structures or objects, of any existing adult business or public park, church, public or private elementary, middle, junior high, high school, or daycare center. It shall further be unlawful to locate or relocate any adult entertainment or adult-oriented business within five hundred (500) feet of any public or private elementary, middle, junior high, high school or residential zone. The location of a newly established public park, church or school within one thousand (100) feet, or the establishment of a residential zone within five hundred (500) feet of an existing adult entertainment or adult-oriented business shall not thereby cause the existing adult entertainment or adult-oriented business to be deemed a non-conforming use. Subject to the above conditions, an adult entertainment or adult oriented establishment will only be permitted in the Highway Commercial District of the Borough.
1. Definitions
    - a. Adult Entertainment and Adult-Oriented Businesses include any store, establishment, tavern, club, or theater having as more than fifty percent (50%) of its stock in trade, books, magazines, or other periodicals or video movies, films, photographs, live appearances, or performances which are distinguished or characterized by their emphasis on matters depicting, describing, or related to “specified anatomical areas” or “specified sexual activities”, as defined below. Any establishment or premises having as substantial or significant portion of its trade, the display, barter, rental or sale of printed matter, pictures, graphics, or other materials or paraphernalia distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specific sexual activities” or “specified anatomical areas” as defined hereinafter, or any “sexually oriented adult entertainment premises”, as defined hereafter, including but not limited to adult bookstores, adult entertainment shows, adult motion picture theaters, and adult arcades, as well as tattoo parlors and body piercing establishments as defined hereafter.
    - b. SPECIFIED ANATOMICAL AREAS shall mean:
      - i. Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola.
      - ii. Human male genitals in a discernibly turgid state even if completely and opaquely covered.
    - c. SPECIFIED SEXUAL ACTIVITIES shall mean:
      - i. Human genitals in a state of sexual stimulation or arousal
      - ii. Acts of human masturbation, sexual intercourse, or sodomy
      - iii. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
    - d. “ENTERTAINMENT” means any exhibition or dance of any type, pantomime, modeling, or any other performance.
    - e. “SEXUALLY ORIENTED ADULT ENTERTAINMENT” means any entertainment conducted in a public place of amusement where such entertainment involves a person appearing or performing in a state of nudity, as defined herein.
    - f. “PUBLIC PLACE OF AMUSEMENT,” “PUBLIC AMUSEMENT/ENTERTAINMENT,” AND “PUBLIC ENTERTAINMENT” mean an amusement, diversion, entertainment, show, performance, exhibition, display or like activity, for the use or benefit of a member or

members of the public, or advertised for the use or benefit of a member of the public, held, conducted, operated or maintained for a profit, either direct or indirect.

- g. “SEXUALLY ORIENTED ADULT ENTERTAINMENT PREMISES” means any premises to which the public, patrons or members are invited or admitted and wherein an entertainer provides sexually oriented adult entertainment on a regular basis and as a substantial part of the business operation.
- h. “ENTERTAINER” means any person who provides sexually oriented adult entertainment within a public place of amusement as defined in this section whether or not a fee is charge or accepted for such entertainment.
- i. “MEMBER OF THE PUBLIC” is defined as any customer, patron or person, other than an employee, who is invited or admitted to a sexually oriented adult entertainment premises.
- j. “NUDITY” is defined as: The showing of the human male or female genitals or pubic area, the showing of the female breast, with less than a fully opaque covering of any part of the areola, or the showing of the covered male genitals in a discernibly turgid state.
- k. “SEXUALLY ORIENTED ADULT ARCADE” AND “SEXUALLY ORIENTED ADULT ARCADE PREMISE” shall mean any premise on which any sexually oriented adult arcade device is located and to which patrons, customers and/or members of the public are admitted.
- l. “SEXUALLY ORIENTED ADULT ARCADE DEVICE,” sometimes also known as “panorama,” “preview,” “picture arcade,” or “peep show,” means any device which, for payment of a fee, membership fee, or other charge, is used to exhibit or display a picture, view, film, videotape, or videodisc, live show or other graphic display of “specified anatomical areas.” All such devices are denominated under this ordinance by the term “sexually oriented adult arcade device.”
- m. “ADULT BOOKSTORE” is defined as any premises from which minors are excluded and in which the retail sale of books, magazines, newspapers, movie films, devices, slides, or other photographic or written reproductions distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas is conducted as a principal use of the premise; or as an adjunct to some other business activity, but which constitutes the primary or a major attraction to the premises.
- n. “ADULT ENTERTAINMENT SHOWS” means any premises from which minors are excluded and in which live entertainment is provided, or any device is provided in which the subject matter is distinguished or characterized by the emphasis on matter depicting, describing, or relating to specified sexual activities or displaying specified anatomical areas as the principal use of the premises or is shown as an adjunct to some other business activity which is conducted on the premises and constitutes a major attraction; and wherein fees of any kind are charged.
- o. “ADULT MOTION PICTURE THEATER” means any establishment from which minors are excluded in which motion pictures, slides, or similar photographic reproductions are shown depicting adult entertainment as the principal use of the premises, or are shown as an adjunct to some other business activity which is conducted on the premises and constitutes a major attraction; and wherein fees of any kind are charged; and wherein such movies are shown on a regular basis; and not to include a theater showing adult-movies less than 5% of the total showing time of the theater.
- p. “TATOO PARLOR” means any establishment that uses any method of placing ink or pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This includes all forms of cosmetic tattooing.

- q. “BODY PIERCING” means puncturing or penetration of the skin of a person with pre-sterilized single-use needles and the insertion of pre-sterilized jewelry or other adornment thereto in the opening, except that puncturing the outer perimeter or lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system shall not be included in this definition.
- D. Other uses which are similar to the above and subject to the following regulations.
  - 1. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.
  - 2. All businesses, servicing or processing, except for off-street parking and loading, shall be conducted within completely enclosed buildings.
- E. Customary accessory uses and buildings incidental to any of the above permitted uses, including the following:
  - Advertising signs customarily incidental to any of the permitted uses pertaining only to the products or services offered for sale on the premises and subject to the provisions of Section 13.08 of this Ordinance
- F. The following special exception uses, upon the issuance of a permit by the Zoning Hearing Board as provided for in Section 16.02 of this Ordinance.
  - 1. Publicly owned buildings, public utility buildings, telephone exchange buildings, electric transformer stations and sub-stations and gas regulator stations with service yards, but without storage facilities.
  - 2. Mortuary and funeral establishments.
  - 3. Residential uses either as the exclusive occupant of a lot or as a mixed use with a permitted non-residential use are permissible only when, in the opinion of the Board, adequate conditions exist or can be imposed that will make such uses compatible with the purposes of this Ordinance.
  - 4. Sales offices and sales lots for the retail sales of new and/ or used automobiles, trucks, boats, farm equipment and mobile homes.
  - 5. Conversion apartment dwellings, subject to the limitations of minimum lot and habitable floor (Section 13.09) and parking (Section 6.04) requirements. [Added 11-3-05 by Ord. 2003-5]

***Section 8.03 - Lot Area, Building Height and Yard Requirements***

**A. Lot Requirements**

Lot widths, area and yard setback requirements of not less than the dimensions shown as follows shall be provided for any use permitted in this district.

- 1. Minimum Lot Area
  - None required for individual permitted uses.
- 2. Minimum Lot Width
  - None required for individual permitted uses.
- 3. Maximum Lot Coverage
  - Not more than fifty (50) percent of the total building coverage for any single district area.

**B. Yard Requirements**

- 1. Front Yard
  - Twenty (20) feet

2. Side Yard

None required for individual permitted uses, except that side yards of not less than twenty-five (25) feet shall be required when abutting any other districts specified in this Ordinance.

3. Rear Yard

Twenty (20) feet.

C. Building Height

No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height; and no accessory structure shall exceed one (1) story or fifteen (15) feet in height; except as provided for in Section 16.04 as a special exception.

***Section 8.04 - Minimum Off-Street Parking, Loading and Unloading Requirements***

- A. Off-street parking shall be provided in accordance with Section 13.07 in this Ordinance.
- B. Each business use shall provide off-street loading and unloading space at the side or rear of the building for each four thousand (4,000) square feet of floor area or fraction thereof in each building. Such space or spaces shall be not less than four hundred (400) square feet in area, with a dimension of ten by forty (10 x 40) feet per space, which shall be located exclusive of any public right-of-way.

***Section 8.05 - Limitations of Signs***

Only those signs referring or relating to the uses conducted on the premises or the materials or products made, sold or displayed on the premises shall be permitted and further provided that all signs and advertising structures shall be maintained in accordance with Section 13.08 of this Ordinance.

***Section 8.06 - General Requirements***

Where Highway Commercial Districts abut any residential district, a landscaped strip of not less than ten (10) feet in width shall be planted and maintained with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences shall be planted and maintained at not less than five (5) feet in height, except on corner lots where a clear sight area defined in Section 13.06 shall be maintained.

## ARTICLE IX

### CBD COMMERCIAL BUSINESS DISTRICTS

***Section 9.01 - Intended Purpose***

The CBD Districts are intended to serve the central retail marketing function of the entire Borough and surrounding trade area and are designed to encourage development of an intensive self-contained shopping center catering to the free circulation of pedestrian activity having arrived by automobile. These districts are intended for a wide-range of shopping and service functions which can provide adequate comparison shopping activities.

***Section 9.02- Permitted Uses***

- A. Any retail business whose principal activity is the sale of new merchandise in an enclosed building.

- B. Retail sales in which both a workshop and a retail outlet or showroom are required (such as plumbing, electrician, interior decorating, dress- making, tailoring, upholstering, photographic reproducing, radio and home appliance and similar establishments of more objectionable character), subject to the following provision:

Not more than forty (40) percent of the total usable floor area of the establishment shall be used for servicing, repairing, manufacturing or processing activities.

- C. Restaurants, tea rooms, cafes, and other establishments serving food and beverages.
- D. Enclosed theaters, assembly halls, concert halls and similar places of assembly or entertainment.
- E. Customary accessory uses and building incidental to any principal permitted use, including advertising signs, subject to the provisions of Section 13.08-signs of this Ordinance; providing, however, that such signs shall not detract from the general intended purpose of this district.
- F. Office buildings, Elderly Housing and Handicap Housing.

Addendum: Motion was made at the June 5, 1990 Regular Stated Council Meeting to amend the Zoning Ordinance to read as stated in Section 9.02F permitted uses.

- G. The following special exceptional uses, upon the issuance of a permit by the Zoning Hearing Board as provided for in this Ordinance (Section 16.04).
  - 1. Uses which, in the opinion of the Board, are of the same general character as those listed as permitted uses and which will not be detrimental to the intended purpose of this district.
  - 2. Motels and Hotels.
  - 3. Automobile service stations as specified by the regulations below
    - a. A set of plans, specifications and plat plans are submitted to the Zoning Hearing Board showing all structures, pumps, storage tanks, parking areas and driveways for ingress and egress.
    - b. All pumps shall be located outside of buildings and on private property and in no case within twenty (20) feet of any street line, and subject to such conditions and safeguards as the Board may impose with respect to, among other matters, the location and adequacy of entrances and exits.
    - c. All automobile parts, dismantled vehicles and similar articles are stored within a building; all fuel, oil or similar substances are stored at least thirty-five (35) feet from any street or lot line.
    - d. In no event shall a permit be granted for such a use located within five hundred (500) feet of a school hospital, church, museum, club or place of public assembly having a capacity of over one hundred (100) persons; a garage or filling station shall not be deemed non-conforming through the subsequent erection of the above uses.
  - 4. Roadside stands and outdoor sales of garden supplies, nursery stock, farm produce and similar merchandise sold at retail.

***Section 9.03 - Lot Area, Building Height and Yard Requirements***

- A. Lot Area and Yard Setback Requirements

None specified except that front, side and rear yards abutting any residential district shall not be less than twenty (20) feet.

- B. Maximum Lot Coverage

None specified.

- C. Building Height

No principal structure shall exceed three (3) stories or forty (40) feet in height, except as permitted as a special exception under the provisions of Section 16.02 of this Ordinance.

***Section 9.04 - Limitations of Signs***

Only those signs referring or relating to the uses conducted on the premises or the materials or products made, sold or displayed on the premises shall be permitted and further provided that all signs and advertising structures shall be maintained in accordance with Section 13.08 of this Ordinance.

***Section 9.05 - General Requirements***

Where CBD Districts about any residential district, a landscaped strip of not less than twenty (20) feet in width shall be planted and maintained with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens, fences or masonry walls shall be planted and maintained at not less than five (5) feet in height, except on corner lots) where a clear sight area as defined in Section 13.06 shall be maintained.

## **ARTICLE X**

### **INDUSTRIAL DISTRICTS**

***Section 10.01 - Intended Purpose***

These districts are designed to provide for the installation of various types of manufacturing and industrial uses. Regulations to minimize their incompatibility with other districts are the minimum required for the mutual protection of the industrial areas; and, to that end, the district should be buffered from any adjacent residential or business district.

***Section 10.02 - Permitted Uses***

- A. Special trade contractors and building material wholesalers, providing that all materials and storage are completely enclosed within a building or similar shelter.
- B. Utilities and communications such as electrical receiving or transforming stations, radio or television broadcasting stations and gas service buildings and yards.
- C. Warehousing, refrigerated and general storage.
- D. Trucking transportation terminals, maintenance and service facilities.
- E. Laundries, laundry services and cleaning and dyeing plants.
- F. Industrial plants manufacturing, processing or assembling the following:
  - 1. Agricultural products.
  - 2. Food and kindred products.
  - 3. Furniture and fixtures.
  - 4. Printing, publishing and paperboard products.
  - 5. Biological products, drugs, medicinal chemicals and pharmaceutical preparation.
  - 6. Electrical machinery, equipment and supplies, electronic components and accessories.
  - 7. Professional, scientific and controlling instruments, photographic and optical goods.
  - 8. Any uses which are charged with the principal function of research (such as industrial, scientific and business research).

- 9. Any other manufacturing plant and uses having performance characteristics similar to those listed in this district in that they emit a minimum of noise, vibration, smoke, glare, electromagnetic or atomic radiation and odor. There shall be no emission of dust, dirt nor toxic or offensive odors or gases.
- G. General construction contractors such as highway and street, heavy construction and general building, coal and coke dealers.
- H. Railroad and railroad terminal facilities.
- I. Transportation, communications, power and fuel right-of-way.
- J. Industrial plants manufacturing, processing or assembling the following:
  - 1. Prefabricated structures and structural members.
  - 2. Chemical products such as plastic materials, medical chemicals, biological products and pharmaceutical preparation.
  - 3. Leather and leather products such as footwear, gloves and luggage.
  - 4. Stone, clay and glass products such as flat glass, glassware, brick and structural tile, pottery products, ceramic wall and floor tile and concrete products.
  - 5. Wooden containers such as boxes and crates.
  - 6. Aluminum, bronze, copper-base alloy and other non-ferrous castings.
  - 7. Machinery such as engines and turbines.
  - 8. Transportation equipment.
- K. Customary accessory uses and buildings incidental to any of the above permitted uses.

**Section 10.03 - Lot Area, Building Height and Yard Requirements**

**A. Lot Requirements**

A lot width, lot area and setbacks of not less than the dimensions shown on the following table shall be provided for every principal building hereafter erected or altered for any use permitted in this district.

Lot Requirements			Yard Requirements			
Minimum Lot Area	Minimum Lot Width	Maximum Lot Cover. (%)	Front	One Side	Total Sides	Rear
1/2 Acre	100'	50%	30'	20'	45'	30'
				50' *		

\*Side yard requirement when abutting residential districts.

**B. Building Height**

No building shall exceed three (3) stories or forty-five (45) feet in height unless authorized as a special exception.

**Section 10.04 - Minimum Off-Street Parking and Loading Requirements**

- A. Off-street parking shall be provided in accordance with Section 13.07 of this Ordinance.
- B. On the same premises with every building or structure or part thereof involving the receipt or distribution of materials or products, there shall be provided adequate space for standing, loading and unloading. All

such spaces shall conform to a dimension of not less than ten by forty (10 X 40) feet or four hundred (400) square feet in area, with a clearance of not less than fourteen (14) feet in height. Spaces required shall be determined by the table below and located exclusive of any public right-of-way or required parking area.

Gross Floor Area (Sq. Ft.)	Spaces Required
Up to 2,000	None
2,001 to 10,000	One (1) Space
10,001 to 50,000	One (1) space plus one (1) additional space for each 20,000 sq. ft. or fraction thereof in excess of 10,000 sq. ft.
50,001 and Over	Three (3) spaces plus one (1) additional space for each 40,000 sq. ft. or fraction thereof in excess of 50,001 sq.ft.

***Section 10.05 - Limitations on Signs***

Only those signs referring or relating to the uses conducted on the premises or to the materials or products made, sold or displayed on the premises shall be permitted and further provided that all signs and advertising structures shall be maintained in accordance with Section 13.08 of this Ordinance.

***Section 10.06 - General Requirements***

Where I Districts abut any other non-industrial district, a landscaped strip of not less than twenty (20) feet in width shall be planted and maintained with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences, shall be planted and maintained at not less than five (5) feet in height, except on corner lots where a clear sight area defined in Section 13.06 shall be maintained. [Amended 9-1-92 by Ord. No. 92-4.]

**ARTICLE XA**

**R&D & LI – RESEARCH AND DEVELOPMENT  
AND LIGHT INDUSTRIAL DISTRICT**

***Section 10a.01 – Intended Purpose***

The Research and Development and Light Industrial District is defined on the attached map. The purpose of this district is to provide sufficient space for limited research and development and light industrial activity within the Borough. It is further intended that research and development and light industrial operations will be compatible with surrounding residential areas.

***Section 10a.02 – Permitted Uses***

In the Research and Development and Light Industrial District, a lot or parcel may be used and a building or structure may be erected for any other following purposes:

- A. Packing, assembly and crating activities and services.

- B. Research, engineering or testing laboratories including associated offices which shall not include chemical, biological and pharmaceutical research or research concerning other hazardous substances.
- C. Administrative activities and offices, including professional and government offices.
- D. Architectural and engineering consultant offices.
- E. Assembly from components, including the assembly of radios, televisions and similar electronic products.
- F. Fabrication of models or test equipment used in research.
- G. Plastics assembly.
- H. Optical instrument systems development.
- I. Dental laboratories.
- J. Radio or television transmitter, including such as an accessory use, if it is of any type requiring licensing by the Federal Communications Commission.
- K. Clothing assembly, sewing and related activities.
- L. Warehouses, distribution centers and associated office space and showrooms, including furniture, appliances and electrical household items.
- M. Wholesale facilities and related showrooms and storage facilities.
- N. Schools for industrial or business training.
- O. Storage, min-storage and moving company facilities.
- P. Packing of candy or confectionery items, cigars, cigarettes, cosmetics, pharmaceuticals and toiletries.
- Q. Packing or assembly of furniture, electrical and office machinery, equipment and supplies.
- R. Printing, engraving and related reproduction processes.
- S. Publishing and distribution of books, newspapers and other printed materials.
- T. Customary and accessory uses and building incidental to any of the above permitted uses such as a restaurant, cafeteria or recreational facility. Also, customary and accessory uses and building incidental to any of the above permitted uses including operations required to maintain or support any use permitted above on the same lot as the permitted use such as truck repair and maintenance shops. Loading, unloading, servicing and parking of trucks shall be permitted in connection with permitted uses.
- U. Accessory parking facilities for cars, trucks and trailers incidental to the above permitted uses.

***Section 10A.03 – Building Height***

No building shall exceed three (3) stories or forty-five feet (45') in height from the lowest floor grade existing on September 1, 1992, unless authorized as a special exception.

***Section 10A.04 – Off-Street Parking***

Off-street parking shall be provided in accordance with Section 13.07 of this Ordinance in connection with B. Industrial Parking Requirements.

***Section 10A.05 – Limitations on Signs***

Business identification, directional signs and signs referring or relating to the uses conducted on the premises or to the materials or products made, sold or displayed on the premises, shall be permitted and further provided that all signs and advertising structures shall be maintained in accordance with Section 13.08 of this Ordinance.

***Section 10A.06 – Noise and Sound Limitations***

Noise and sound requirements shall conform to all federal, state and local laws, statues, ordinances and regulations as they are enacted and amended from time to time.

***Section 10A.07 – Hazardous Substances***

Except on an incidental basis, the manufacture or use of chemicals, biological, pharmaceutical or hazardous materials in a productions process shall be prohibited in this district, including specifically their use in a production process in a school for industrial training.

***Section 10A.08 – Tract No. 2***

Tract No. 2 shall be limited to the parking of automobiles.

***Section 10A.09 – Zoning Map***

The zoning map of the Borough of Northumberland shall be changed to reflect the boundaries of the new district as set forth on the attached map.

## ARTICLE XI

### OS - OPEN SPACE/RECREATION

***Section 11.01 - Intended Purpose***

These district regulations are designed to protect areas in the Borough for the preservation and conservation of the natural environment and to permit and encourage the retention of open land; floodplain areas of streams; and open land uses located to constitute a harmonious and appropriate part of the physical development of the Borough.

***Section 11.02 - Permitted Uses***

- A. Public conservation areas and structures for the conservation of open space, water, soil and wildlife resources.
- B. Public park and recreation areas, game refuges and similar non-intensive public uses.
- C. Agriculture, horticulture, truck gardening and nurseries.
- D. Customary accessory uses and buildings incidental to any of the above permitted uses.
- E. Single family residences, provided the lot on which located is not less than one (1) acre in area, subject further to the requirements of Section 11.03.
- F. Structures specifically designed for seasonal and/or recreational use such as tents, cabins, travel trailers or similar structures, whether of a fixed or mobile nature, may be erected or established for a limited time period not to exceed six (6) months, subject to the issuance of a temporary use permit (and approval of the public health officer) by the Zoning Officer, provided that there shall be no renewal of said permits for successive periods, provided further that such temporary seasonal and/or recreational use structures are so spaced that the distance between any two (2) structures shall not be less than twenty-five (25) feet. Any temporary structure hereafter erected, moved or established shall be setback not less than thirty (30) feet from any river, stream or other body of water.
- G. The following special exception uses, upon the issuance of a permit by the Zoning Hearing Board as provided for in Section 16.04 of this Ordinance.
  1. Semi-public or private recreational areas, historical preservation areas.

2. Public utility and communications buildings and structures.

**Section 11.03 - Lot Area, Building Height and Yard Requirements**

**A. Lot Requirements**

A lot width, lot area and yard setback requirements of not less than the dimensions shown in the following table shall be provided for every building or structure hereafter erected or altered for any use permitted in this district.

Public Services	Lot Requirements			Yard Requirements			
	Minimum Lot Area	Minimum Lot Width	Max. Lot Cover. (%)	Front	One Side	Total Sides	Rear
None Required	None	200'	20%	50'	20'	40'	50'

**B. Building Height**

No principal building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height; and no accessory building shall exceed one (1) story or fifteen (15) feet in height, unless authorized as a special exception in accordance with Section 16.04 of this Ordinance.

**Section 11.04 - Minimum Off-Street Parking Requirements**

Off-street parking shall be provided in accordance with the provisions of this Ordinance (Section 13.07).

## ARTICLE XII

### HISTORIC DISTRICTS

**Section 12.01 - Intended Purpose**

The Historic District area is defined on the Zoning Map (See Zoning Map) and delineated in the Historic District designation as submitted to the Bureau for Historic Preservation.

The Historic District shall be considered an overlay to the existing underlying Zoning Districts as shown on the Zoning Map, and as such, the following provisions of the Historic District shall serve as a supplement to the underlying Districts' provisions.

Where any conflict occurs between the following provisions of the Historic District and those of any underlying Zoning District, the more restrictive provisions shall apply.

**Section 12.02 - Conversions Permitted**

Conversion of older dwellings in the Historic District shall meet the following requirements:

- A. The maximum number of units permitted in residential properties without prior approval from the Planning Commission and/or Zoning Hearing Board, shall be two (2).
- B. Approval for additional units within residential properties in the Historic District shall be based on the following requirements:

1. No more than four (4) residential units may be created in a residential structure, except in cases of congregate type living for the elderly which shall be considered as a separate living arrangement subject to the following requirements:
  - a. such homes shall have an on-site supervisor
  - b. such homes shall provide at least six hundred (600) square feet for each occupant and a minimum of one (1) bath per three (3) occupants
  - c. the structure shall meet all applicable state requirements, including fire and building codes for such structures
2. The minimum size of a residential unit within such structures shall be at least six hundred (600) square feet and shall be provided with a separate exit.
3. Members of the building owner's immediate family shall be exempt from this requirement as long as a separate and non-accessible unit with its own entrance has been created.
4. No commercial uses shall be created within structures in the Historic District except as follows:
  - a. Professional offices, including legal, medical, dental, accounting, architect, which shall be limited to three (3) employees, including the principal.
  - b. Home occupations, which shall not employ more than three (3) persons, including the principal and shall be restricted to the following occupations:
    - i. cottage industry
    - ii. secretarial services
    - iii. sales and service
5. Signage in the Historic District shall- be limited to the following:

One (1) sign not to exceed five (5) square feet that shall be either fastened to front of the building at a height no greater than six (6) feet above the first floor or first floor porch area or supported by wooden posts on a front or rear lawn no less than fifteen (15) feet from the sidewalk at the front of the structure, or property line in the event there is no sidewalk.

***Section 12.03 - Accessory Uses***

The Historic District Accessory Uses shall be restricted to the following categories:

- A. Cultural Institutions
- B. Mortuaries
- C. Churches
- D. Schools
- E. Parks and other open space uses

***Section 12.04 – Siding***

Installation of siding shall not violate the original integrity of the historical structures and shall adhere to the following conditions:

- A. It shall resemble the clapboard and/or other facing of the original structure.
- B. It shall be applied so that it does not obscure original architectural detailing.
- C. It shall not result in the elimination of original details such as brackets, trim, window hood moldings, roof cornices, and other original features.

***Section 12.05 - Window and Door Replacement***

Windows and doors, when replaced, shall respect the original character of structures in the Historic District. Changes shall be made according to the following standards:

- A. Original window openings shall not be altered as a result of replacement. In cases where windows of similar configuration are not available at comparable cost, replacement windows shall be surrounded with trim work that is compatible in texture and color and which fills the original opening. Original arched openings shall be retained.
- B. Windows of multiple panes shall be replaced as nearly as possible to their original condition, replacement windows shall be the same dimensions as the original.
- C. In no case may different sized windows, or windows with varying numbers of panes, be used randomly or intermittently to replace windows that were of consistent size and pane numbers. Doors shall use original openings and be of similar size and texture.

## **ARTICLE XIII**

### **SUPPLEMENTARY REGULATIONS**

The provisions of this Ordinance shall be subject to such exceptions, additions or modifications as herein provided by the following supplementary regulations.

***Section 13.01 - Accessory Buildings***

An accessory building attached to a principal building shall comply in all respects with the yard requirements of this Ordinance for the principal building. Detached accessory buildings shall be located to the rear of the front building line of the principal building and, if located in a side yard area, shall conform to the side yard requirements with respect to the principal building. Accessory buildings shall not exceed one (1) story or fifteen (15) feet in height and may not occupy more than thirty (30) percent of a required rear yard.

***Section 13.02 - Temporary Structures for Dwelling Purposes***

No cabin, mobile home, basement or other temporary structure, whether of a fixed or mobile nature, may hereafter be erected or established for any dwelling purpose for any length of time unless approval for temporary use is granted by the Zoning Hearing Board.

***Section 13.03 - Water Supply and Sewerage Facilities Required***

In the interest of protecting the public health, safety and welfare, every building or structure hereafter erected, altered or moved upon any premises and used in whole or part for dwelling, commercial or recreational business or industrial purposes shall be provided with both a safe and sanitary water supply and a safe and sanitary means of collection and disposal of human excreta and domestic, commercial and industrial waste. Such facilities shall conform to the minimum requirements set forth by the Pennsylvania Department of Health.

***Section 13.04 – Exceptions***

- A. Public Utility Corporations

The provisions of this Ordinance shall not apply to any existing or proposed building, structure, use or extension. Thereof used or to be used by public utility corporation if, upon petition of the corporation, the Public Utility Commission shall, after public hearing, decide that the present or proposed location in question is reasonably necessary for the convenience and welfare of the public.

B. Application to Lots of Record

1. Where two (2) or more non-conforming abutting lots of record are held in one (1) ownership, either legal or equitable, or subsequently come to be held in one ownership, they shall be considered to be a single lot of record for the purpose of this Ordinance; and the provisions of the Ordinance shall not thereafter be circumvented or avoided by the willful sale or conveyance of a part or portion of any parcel or parcels.
2. Where the owner of a lot of record does not own and cannot reasonably acquire sufficient adjacent land to enable him to conform to the requirements herein prescribed, such lot may be used by said owner as a building site, provided that the required open space and other provisions conform as closely as possible, in the opinion of the Zoning Hearing Board, to the requirements of the district in which it is located.

C. Height Exceptions

The height limitations of this Ordinance shall not apply to church spires, silos, belfries, cupolas, penthouses, and domes not used for human occupancy nor to chimneys, ventilators, skylights, water tanks, bulkheads and similar features and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such height as necessary to accomplish the purposes they are to serve and then only in accordance with any other governmental agencies.

**Section 13.05 - Required Street Access**

Each principal use hereafter established which involve buildings of structures for human occupancy shall be located and maintained upon a lot which abuts a street or road of at least fifty (50) feet in width for a distance of not less than thirty (30) feet, unless abutting on an existing street which is less than fifty (50) feet in width.

**Section 13.06 - Visibility at Intersections [Amended 10-5-1995 as Ord. No. 437.]**

On a corner lot in any district, no fence, wall, hedge or other structure or planting more than two (2) feet in height shall be erected, placed, maintained or allowed to remain within the triangular area (the clear sight triangle) formed by the curb lines and a straight line joining points which, as measured along said curb lines, are twenty-five (25) feet distant from the intersection of the curb lines. If there are no curbs, the clear sight triangle shall be measured along the paved portion of the street, avenue or alley.

**Section 13.07 - Off-Street Parking**

Adequate space for off-street parking of motor vehicles shall be provided and maintained for each building, structure or use hereafter erected, altered or established, exclusive of any public right-of-way. No part of any required front yard shall be used for parking purposes. A minimum of two hundred (200) square feet, exclusive of drives, entrances and exits, shall comprise one (1) vehicular parking space. The minimum number of off street parking spaces by type of use shall be determined in accordance with the following schedule:

Minimum Requirements For Parking Areas Or Accessory Garages		
Use	Minimum Spaces Required	For Each
A. Residential		
Single and Two family Dwellings	1	Dwelling Unit
Multiple Dwellings & Apartment Houses	1 1/2	Unit or Apartment
Hotels, Motels and Rooming-Tourist Homes	1	Guest room or unit

B. Industrial		
Industrial Plants and Related Activities	1	Two (2) employees in the largest working shift
Warehousing, Wholesale and Storage Establishments	1	Two (2) employees in the largest working shift
Visitor Parking	1	Parking spaces for each two hundred (200) square feet of company offices or four (4) spaces, whichever is larger

**Section 13.08 - Signs and Advertising Structures [Amended 10-5-95 as Ord. No. 437.]**

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

**A. General Regulations**

All signs and/or advertising structures where permitted in the Zoning Ordinance are subject to the following:

1. It shall not contain moving parts or use flashing or intermittent illumination; the source of light shall be steady and stationary.
2. It shall not cast objectionable light upon any dwelling or mixed use dwelling on a separate lot
3. It shall be no higher than thirty-five (35) feet from the ground to the highest part of the sign.
4. It shall not be so erected as to obstruct entrance to or exit from a required door, window, fire escape or other required exit way.

**B. Signs In Residential Districts.**

The following types of signs may be permitted in residential districts unless otherwise provided.

1. One (1) name plate and one (1) house sign for each dwelling unit, professional office or home occupation, provided it does not exceed two (2) square feet and identifies only the name and title of occupant. It shall not extend beyond a vertical plane two (2) feet inside the lot from the street line. If lighted, it will be illuminated without objectionable glare. No displays or change in facade shall indicate from the exterior that the building is being used in whole or in part for any purpose other than that of a dwelling.
2. Real estate sign, provided it is unlighted, is not closer to a right-of-way than one-half (1/2) the depth of the existing front yard, does not exceed six (6) square feet in area and pertains either to the lease, rental or sale of the premises on which it is maintained.
3. One (1) institutional sign, provided it does not exceed sixteen (16) square feet in area and is not closer to a right-of-way than one-half (1/2) the depth of the existing front yard. If lighted, it will be illuminated without objectionable glare.
4. Signs up to two (2) feet square in area on each side which are necessary for the identification, protection and operation of public utility facilities.

**C. Signs in All Districts**

The following types of signs are permitted in all districts.

1. Temporary signs of painters, mechanics, contractors and the like, provided that such signs are only located on the premises upon which the work is being done, and provided that such signs are removed immediately after the work is completed on the premises.
2. Temporary signs and banners of a non-commercial nature across rights-of-way if first approved by Borough Council, and provided that and so long as
  - a. The sign or banner is not erected in a location which would create or constitute a traffic hazard; and
  - b. The sign or banner and the method and manner of its erection and suspension over the right-of-way meet reasonable engineering and safety standard; and
  - c. The sign or banner is maintained in a safe condition by the permittee; and
  - d. The sign or banner is removed by the permittee immediately upon the expiration date set by Borough Council.
3. An identification sign of permanent nature indicating the location and/or entrance to a subdivision or development containing five (5) or more lots, provided that and so long as
  - a. The sign is no larger than twenty (20) square feet in area; and
  - b. The sign contains no commercial or advertising message; and
  - c. The sign is located on property of the subdivision or development, or property obtained for the purpose of erecting the sign; and
  - d. The location of the sign does not have an adverse effect upon public safety.
4. An advertising sign of a temporary nature designed to show sales information and the location of lots in a subdivision or development, provided that and so long as
  - a. The sign is not more than twenty-four (24) square feet in area; and
  - b. The sign is located on the property of the subdivision or development; and
  - c. The sign is located behind the front building line of the property upon which it is erected and faces the street upon which the property fronts; and
  - d. The sign does not have an adverse effect upon the health, safety and welfare of the area in which it is located or is to be located; and
  - e. The sign is removed upon expiration of six (6) months following the issuance of the permit, or upon the sale of seventy-five percent (75%) of the lots in the subdivision or development, whichever first occurs, provided, however, that upon request of the permittee the sign may be permitted to stand until the expiration of one additional six (6) month period or until seventy-five percent (75%) of the lots in the subdivision or development are sold, whichever first occurs.
5. Signs indicating direction to a location, double sided if requested, to which media advertising may be directed, provided that and so long as
  - a. Such sign does not exceed two (2) square feet in area; and
  - b. Permission in writing is obtained from the owner of the property upon which the sign is to be erected; and
  - c. No more than three (3) such signs may be erected to indicate the direction to a particular location.

D. Definitions

For purposes of subparagraph 3 of paragraph B, an “institutional sign” is a sign indication the location of a building or buildings which house an organization for the promotion of a cause, such as an educational facility, a training facility, a hospital, an extended care facility, or other similar or like facility.

***Section 13.09 - Conversion Apartments***

In any residential district, excepting the Historic District, residential structures existing at the date of the adoption of this Ordinance may be converted into apartments, providing there shall be a minimum of two thousand (2,000) square feet of land area per apartment and a minimum of seven hundred (700) square feet of floor area per apartment without expansion of the existing residential structure.

***Section 13.10 – Additions***

Additions shall meet all of the standards established for height, setbacks and land area ratios in the appropriate district in which such addition is located. They shall utilize as much as possible materials used in the original construction and relate to the scale and dimensions of the original. In no case may the dimensions of the addition be greater than one-half (1/2) the size of the original structure, unless the owner shall have submitted to the Zoning Hearing Board for approval an architect’s plan for the addition which adheres to these considerations.

***Section 13.11 - Yard Sales [Repealed 10-1-99.]***

***Section 13.12 - Additional Requirements for 100 Year Floodplain Area***

Any proposed new use or development or substantial changes to existing development located wholly or partially within the 100 Year Floodplain shall be subject to the standard requirements and Regulations of the Northumberland Borough Floodplain Ordinance in addition to all applicable regulations of this Zoning Ordinance.

## ARTICLE XIV

### PLANNED RESIDENTIAL DEVELOPMENT

***Section 14.01 - Statement of Intent***

- A. The intent of this Article is to provide, in the case of planned projects, an added degree of flexibility in the placement, bulk and inter-relationship of the buildings and uses within the planned project and the implementation of new design concepts while at the same time maintaining the overall intensity of use, density of population and amounts of light, air, access and open space specified by this Ordinance for the district in which the proposed project is to be located.
- B. The housing type, minimum lot area, yard, height and accessory uses shall be determined by the requirements and procedures set out hereafter which shall prevail over conflicting requirements of this Ordinance or the regulations governing the subdivision of land.

***Section 14.02 – Procedure***

- A. An application for a permit authorizing a special exception use must be made with the Zoning Hearing Board in three (3) copies. This application shall contain at least the following:
  - 1. A legal description of the property under consideration, which also shows that such property is at least ten (10) acres in area.

2. A fully dimensioned map of the land, including topographic information at a contour interval of not less than two (2) feet.
  3. A site plan showing the location of all existing and proposed principal and accessory buildings and structures, parking lots, buffer strips, plantings, streets, public ways and curb cuts.
  4. Proposed reservations for park, parkways, playgrounds, school sites and other open spaces, with an indication of the structure of the organization proposed to own and maintain the common open space.
  5. A vicinity map showing the location of the site in relation to the surrounding neighborhood.
  6. Architectural sketches, at an appropriate scale, showing building height, bulk interior layout and proposed use.
  7. The feasibility of proposals for the disposition of sanitary waste and storm water.
  8. The substance of covenants, grants of easement or other restrictions proposed to be imposed upon the use of the land, buildings and structures, including proposed easements of grants for public utilities.
  9. The required modifications in the land use regulations otherwise applicable to the subject property.
  10. A schedule showing the proposed times within which applications for final approval of all sections of the planned residential development are intended to be filed if the development plans call for development over a period of years. This schedule must be updated annually on the anniversary of its approval until the development is completed and accepted.
  11. A written statement by the landowner setting forth the reasons why, in his opinion, a planned residential development would be in the public interest and consistent with the Comprehensive Plan for the development of the Borough.
- B. The Zoning Hearing Board shall refer the application to the Borough Planning Commission and the County planning agency for study and recommendation. The County and Borough planning agencies shall be required to report to the Borough Zoning Hearing Board within thirty (30) days or forfeit the right to review. The Borough Zoning Hearing Board shall hold a public hearing within sixty (60) days after the filing of the application for tentative approval in the manner prescribed in Article XV for the enactment of an amendment to the Zoning Ordinance. The Zoning Hearing Board may continue the hearing from time to time; provided, however, that, in any event, the public hearing or hearings shall be concluded within sixty (60) days after the date of the first public hearing.
- C. After a study of the application and within thirty (30) days following the conclusion of the public hearings) the Zoning Hearing Board shall make a written report by certified mail to the applicant. Said report will grant tentative approval of the development plan as submitted, grant tentative approval subject to specified conditions not included in the development plan as submitted or deny tentative approval to the development plan. Failure to so act within said period shall be deemed to be a grant of tentative approval of the development plan as submitted. If tentative approval is granted subject to conditions, the landowner may, within thirty (30) days after receiving a copy of the official written report, notify the Zoning Hearing Board of his refusal to accept all said conditions; in which case, the Zoning Hearing Board shall be deemed to have denied tentative approval of the development plan. If the landowner does not, within said period, notify the Zoning Hearing Board of his refusal to accept all said conditions, tentative approval of the development plan, with all said conditions, shall stand as granted.

The granting or denial of tentative approval by official written communication shall include conclusions and findings of fact related to the proposal and the reasons for the grant, with or without conditions, or the denial. Also contained in the communication shall be a statement of the respects in which the development plan is or is not in the public interest, including conclusions on the following:

1. Those respects in which the development plan is or is not consistent with the Comprehensive Plan for the development of the Borough.
2. The extent to which the development plan departs from zoning and subdivision regulations otherwise applicable to the subject property, including, but not limited to, density, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest.
3. The purpose, location and amount of the common open space in the planned residential development; the reliability of the proposals for maintenance and conservation of the common open space; and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development.
4. The physical design of the development plan and the manner in which said design does or does not make adequate provision for public service; provide adequate control over vehicular traffic; and further the amenities of light and air, recreation and visual enjoyment.
5. The relationship, beneficial or adverse, of the proposed planned residential development to the neighborhood in which it is proposed to be established.
6. In the case of a development plan which proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interest of the public and the residents of the planned residential development in the integrity of the development plan.
7. The time period within which an application for final approval shall be filed or, in the case of a development plan which provides for development over a period of years, the periods of time within which applications for final approval of each part thereof shall be filed. The time so established shall not be less than three (3) months and, in the case of the phased development, not less than twelve (12) months for applications for each part of a plan.

- D. The official written communication shall be certified by the Secretary of the Zoning Hearing Board and filed in his office. Where tentative approval has been granted, the same shall be noted on the Zoning Map.

Tentative approval shall not qualify a plat of the planned residential development for recording, development or the issuance of any building permits. A plan which has received tentative approval shall not be modified, revoked nor otherwise impaired by action of the Borough if the time periods for submission of the final application specified in said written communication are being fulfilled without the consent of the applicant.

In the event tentative approval was granted, but prior to final approval, and the applicant elects to abandon said plan and notifies the Zoning Hearing Board in writing or fails to file for final approval within the specified times, the tentative approval shall be deemed to be revoked; and all the area in the development plan which has not received final approval shall be subject to the Zoning Ordinance as otherwise applicable thereto, and the same shall be noted on the Zoning Map and in the records of the Secretary of the Zoning Hearing Board.

- E. The application for final approval may be for all the land included in the plan or, to the extent set forth in the tentative approval, for a section thereof. Said application shall be made to the Zoning Hearing Board within the time or times specified by the tentative approval. The application for final approval shall meet all requirements and contain all enclosures specified for the final plan of a subdivision within the Northumberland Borough Subdivision and Land Development Ordinance. A public hearing on an application for final approval of the development plan or part thereof shall not be required, provided the development or part thereof submitted for final approval is in compliance with the development plan thereto for a given tentative approval and with any specified conditions attached thereto.

1. When the final application has been filed, together with all drawings, specifications and other documents in support thereof, and as required by the Ordinance and the official written

communication of tentative approval, the Zoning Hearing Board shall, within thirty (30) days of such filing, grant final approval to said plan.

2. When the final application contains variations from the plan given tentative approval, the Zoning Hearing Board may refuse to grant final approval and shall, within thirty (30) days of the filing, so advise the applicant of said refusal, setting forth the reasons why one or more of the variations are not in the public interest. In the event of such refusal, the applicant may either re-file his application without the objected variations or request a public hearing on his application for final approval. Either action shall be taken within the time which the applicant was entitled to apply for final approval or within thirty (30) additional days if the said time already passed when the applicant was advised of the denial. If no action is taken by the applicant, the plan is deemed to have been abandoned. If a public hearing is requested, it shall be conducted in the same manner prescribed for tentative approval; but the written communication shall either grant or deny final approval while in the form and contain the findings required for an application for tentative approval.
- F. A development plan or any part thereof which has received final approval shall be certified by the Zoning Hearing Board and filed within ninety (90) days with the Northumberland County Recorder of Deeds. Should the plan not be recorded within such period, the action of the Zoning Hearing Board shall become null and void. No development plan shall take place until the plan has been recorded; and from that time, no modification of the provisions of said plan or part thereof as finally approved shall be made without the consent of the landowner.
  - G. In the event a plan or section thereof has been given final approval and the landowner decides to abandon said plan or section and shall so notify the Zoning Hearing Board or fail to develop the plan according to the annually up-dated schedule, no development or further development shall take place on the property included in the plan until the said property is re-subdivided and reclassified by enactment of an amendment to the Northumberland Borough Zoning Ordinance.
  - H. Any decision of the Zoning Hearing Board under this Article granting or denying tentative or final approval of a development plan shall be subject to appeal to court in the same manner and within the same time limitation provided for zoning appeals.

***Section 14.03 - Planned Development Standards***

**A. Dwelling Units Permitted**

The maximum number of dwelling units permitted as an average per acre shall be four (4) in the case of single-family units and eight (8) in the case of attached multiple-unit development. The area of land set aside for common open space or recreational use shall be included in determining the number of dwelling units permitted. In no case may more than twenty (20) percent of the net developable land area, as defined by zone, be developed into multiple dwellings. Net development area shall be determined by subtracting the area set aside for churches and school use from the gross development area and deducting fifteen (15) percent of the remainder for streets, regardless of the amount of land actually required for streets.

The minimum number of dwelling units permitted as an average per acre shall be two (2) in the case of single-family units and four (4) in the case of attached multiple-unit development.

**B. Lot Area and Frontage**

The minimum lot area and minimum lot frontage of single family dwelling lots established within the development shall not be less than three-fourths (3/4) of the normal- minimum lot area or minimum lot frontage of the single family district in which the lot is located. In no case shall a single family lot be created with an area of less than five thousand (5,000) square feet or a frontage of less than fifty (50) feet at the building line and thirty (30) feet at the right-of-way property line.

C. Other Requirements

Off-street parking shall be provided according to the minimum requirements set forth in Section 13.07 of this Ordinance. The layout and improvement of parking lots and garages shall also conform with this section and other applicable ordinances. The design, arrangement and improvement of streets and driveways shall conform with the ordinance regulating the subdivision of land.

## ARTICLE XV

### NON-CONFORMING BUILDINGS AND USES

***Section 15.01 – Continuance***

Except as otherwise provided in this Section, the lawful use of land or buildings existing at the date of the adoption of this Ordinance may be continued, although such use or building does not conform to the regulations specified by this Ordinance for the zone in which such land or building is located; provided, however, that no non-conforming lot shall be further reduced in size.

***Section 15.02 - Cessation of Use***

A non-conforming use shall be adjudged as terminated when there occurs a cessation of any such use or activity by an apparent act or failure to act on the part of the tenant or owner to re-instate such use with a period of one (1) year from the date of cessation or discontinuance. Such use shall not thereafter be re-instated, and the structure shall not be re-occupied except in conformance with this Ordinance.

***Section 15.03 – Restoration***

If any non-conforming building shall be destroyed by reason of windstorm, fire, explosion or other act of God or the public enemy to an extent of more than fifty (50) percent of the building, then such destruction shall be deemed complete destruction; and the structure may not be rebuilt, restored or repaired except in conformity with the regulations of this Ordinance. Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any wall, floor or roof which has been declared unsafe by the Building Inspector.

***Section 15.04 - Reversion***

No non-conforming use shall, if once changed into a conforming use, be changed back again into a non-conforming use.

***Section 15.05 – Alterations***

A non-conforming building may be altered or improved, provided the alteration or improvement does not amount to a substantial increase of a non-conforming use; but if such alterations or improvements involve any increase in lands so used or in the cubic content of the buildings so used, the permit for the alteration or improvement shall be issued only upon special exception granted in accordance with law. In addition, the following criteria shall apply.

- A. The proposed alteration shall be within the lot limits which existed for the property in question at the time of the adoption of this Ordinance.
- B. The proposed alteration shall not exceed twenty-five (25) percent of the gross floor area occupied by the non-conforming use at the time of the enactment of this Ordinance, subject to the approval of the Zoning Hearing Board.
- C. The proposed alteration will not cause an increased detrimental effect on the surrounding neighborhood.

***Section 15.06 - Construction Approved Prior To Ordinance***

Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within three (3) months of the date of such permit and the ground story framework of which, including the second tier of beams, shall have been completed within six (6) months of the date of the permit and which entire building shall be completed according to such plans as filed within one (1) year from the date of this ordinance.

***Section 15.07 - District Changes***

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any non-conforming uses existing thereon or created thereby.

***Section 15.08 - Discontinued Non-Conforming Use of Open Land***

All non-conforming signs, billboards, junk storage areas, storage areas and similar non-conforming uses of open land involving a substantial investment in permanent buildings, when discontinued for a period of six (6) months or damaged to an extent of fifty (50) percent or more of replacement costs, shall not be continued, repaired or reconstructed.

## ARTICLE XVI

### ADMINISTRATION AND ENFORCEMENT

***Section 16.01 - Zoning Officer***

The provisions of this Ordinance shall be administered and enforced by the Zoning Officer who is hereby granted all powers necessary to carry out his duties in connection with this Ordinance, including the power to make inspection of buildings or premises and to institute civil enforcement proceedings. The Zoning Officer shall administer this Ordinance in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to the Ordinance.

***Section 16.02 – Permits***

A. Zoning Permits

Zoning permits shall be issued by the Zoning Officer. The fee for said permit shall be such as Borough Council shall establish by Resolution.

B. Temporary Use Permits

The Zoning Officer may issue a temporary use permit for a period not to exceed six (6) months for activities otherwise prohibited by other provisions of this Ordinance, under the following conditions:

1. The Zoning Hearing Board must find that the activities are of such nature and so located that they will not have a detrimental effect upon the uses of land and activities normally permitted in the zone, or that the activities contribute materially to the welfare of the Borough, particularly in a state of emergency, under conditions peculiar to the time and place involved.
2. The use shall be subject to any conditions imposed by the Zoning Hearing Board by applying such of the regulations governing the issuance of special exceptions as it deems appropriate under the circumstances.

C. Occupancy Permits

It shall be unlawful to use or permit the use of any part of any building or premises that is hereafter created, located, erected, changed, converted or enlarged, wholly or partly, until an occupancy permit has been issued certifying that the provisions of this Ordinance have been complied with. Occupancy permits shall be granted or denied by the Zoning Officer.

***Section 16.03 - Appeals from Zoning Officer***

All appeals from determinations of the Zoning Officer shall be taken before the Zoning Hearing Board.

***Section 16.04 - Enforcement Notice***

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

***Section 16.05 - Enforcement Remedies***

- A. District Justices shall have initial jurisdiction over proceedings brought under this section.
- B. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Borough, pay a judgment of **[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]** plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence, or be imposed, levied or payable, until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to the Borough.
- C. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.

- D. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Borough the right to commence any action for enforcement pursuant to this section.

***Section 16.06 - Preventive Causes of Action by Borough or Aggrieved Person***

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

***Section 16.07 – Records***

It shall be the duty of the Zoning Officer to keep a record of all applications for permits and of all permits issued together with all notations, correspondence, documents, plans, etc., relating thereto. He shall maintain files for the same in the Borough office.

The Zoning Officer shall prepare a monthly report for the Borough Council of all permits issued, and of all complaints of violations and the action taken by him on said complaints.

***Section 16.08 - Zoning Hearing Board ("Board")***

**A. Membership Of The Board**

1. The membership of the Board shall consist of three (3) residents of the Borough appointed by resolution by Borough Council. Their terms of office shall be three (3) years and shall be so fixed that the term of office of one (1) member shall expire each year. The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Borough.
2. The Borough Council may appoint by resolution at least one but no more than three residents of the Borough to serve as alternate members of the Board. The term of office of an alternate member shall be three years. When seated pursuant to the provisions of Section 16.08C21 an alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board members including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this act and as otherwise provided by law. Alternates shall hold no other office in the municipality, including membership on the planning commission and zoning officer. Any alternate may participate in any proceeding or discussion of the Board but shall not be entitled to vote as a member of the Board nor be compensated unless designated as a voting alternate member pursuant to Section 16.08C2.

**B. Removal Of 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, taken after the member has received fifty (15) days advance notice of the intent to take such a vote. A public hearing shall be held in connection with the vote if the member shall request it in writing.

**C. Organization Of Board**

1. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a

quorum shall be not less than a majority of all the members of the Board, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided in this Ordinance.

2. If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate as many alternate members of the Board to sit on the Board as may be needed to provide a quorum. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially designated to set until the Board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.
3. The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the Borough and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the Borough, and shall submit a report of its activities to the governing body as requested by Borough Council.

#### D. Board's Jurisdiction

The Board shall have exclusive jurisdiction to hear and render final adjudication in all matters authorized by the Planning Code, which includes, among others, the following matters:

1. Substantive challenges to the validity of this Ordinance, except those brought before Borough Council under curative amendment provisions of the Planning Code.
2. Challenges to the validity of an ordinance amending the Borough's Zoning Ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within 30 days after the effective date of said ordinance.
3. Appeals from the determination of the zoning officer, including, but not limited, to the granting or denial of any permit, or failure to act on the application therefore, or the issuance of any cease and desist order.
4. Applications for variances from the terms of this Ordinance.
5. Applications for special exceptions under this Ordinance.
6. Nothing contained in this Ordinance shall be construed to deny the appellant the right to proceed directly to court where appropriate, pursuant to the Pennsylvania Rules of Civil Procedure No. 1091 relating to actions in mandamus.

#### E. Actions Before The Board

1. Appeals under Section 16.08 D 1, 2, and 3 may be filed with the Board in writing by the landowner affected, any officer or agency of the Borough, or any person aggrieved.
2. Requests for a variance under Section 16.08 D4 and for special exception under Section 16.08 D5 may be filed with the Board by any landowner, or any tenant with the permission of such landowner.
3. No person shall be allowed to file any proceeding with the Board later than thirty (30) days after an application for a zoning permit has been approved by the Zoning Officer if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given.
4. All appeals from determinations adverse to the landowner shall be filed by the landowner with thirty (30) days after notice of the determination is issued.

F. Board Hearings:

1. The Board shall conduct its hearings and make its decisions in accordance with Article IX of the Planning Code.
2. Notice of any hearing shall be published once each week for two successive weeks. The first publication shall not be more than 30 days and the second publication shall not be less than 7 days from the date of the hearing. Written notice shall be given one time to the applicant, the zoning officer, and any person who has made timely request for the same. Written notices shall be given by regular mail and shall be mailed not more than thirty (30) days nor less than seven (7) days from the date of the hearing. In addition, written notice shall be conspicuously posted on the affected tract of land at least one week prior to the hearing. All notices shall state the time and place of the hearing and the particular nature of the matter to be considered.
3. The applicant shall pay such fees as Borough Council prescribes by resolution, which fees may include compensation for the secretary and members of the zoning hearing board, notice and advertising costs and necessary administrative overhead connected with the hearing.
4. The hearing shall be held within sixty (60) days from the date of the applicant's request, unless the hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer.
5. The hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer.
6. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument, and to cross examine adverse witnesses on all relevant issues.
7. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
8. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer, or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.
9. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate.
10. The Board or the hearing officer (if his decision or findings are to be final), as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board or hearing officer. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings and the Board's decision shall be entered no later than thirty (30) days after the report of the hearing officer.
11. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within sixty (60) days from the date of the applicant's request for a hearing, except in those cases where the validity of this Ordinance or the Zoning Map have been challenged on substantive grounds, 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. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

12. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date.

G. Board's "Validity Of Ordinance:" Function

1. The following challenges not involving a curative amendment, shall be submitted to the Board:
  - a. A landowner who, on substantive grounds, desires to challenge the validity of this Ordinance or the Zoning Map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest.
  - b. Persons aggrieved by a use development permitted on the land of another by this Ordinance or the Zoning Map, or any provision thereof, who desires to challenge its validity on substantive grounds.
2. The challenging party shall make a written request to the Board that it hold a hearing on its challenge. The request shall contain the reasons for the challenge.
3. Based upon the testimony presented at the hearing or hearings, the Board shall determine whether the challenged ordinance or map is defective, as alleged. If a challenge is found to have merit, the decision of the Board shall include recommended amendments to the challenged ordinance which will cure the defects found. In reaching its decision, the Board shall consider the amendments, plans and explanatory material submitted by the landowner and shall also consider:
  - a. The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;
  - b. If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the ordinance or map;
  - c. The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, flood plains aquifers, natural resources and other natural features;
  - d. The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, 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
  - e. The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.
4. The challenge shall be deemed denied when the Board fails to commence the hearing within the time limits set forth in this Ordinance or fails to act on the request forty-five (45) days after the close of the last hearing on the request, unless the time is extended by mutual consent by the landowner and the Borough.

H. Board's "Variance" Function

1. The Board shall hear requests for variances where it is alleged that the provisions of the zoning ordinance inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance, provided that all of the following finds are made where relevant in a given case:
  - a. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is

due to such conditions and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or district in which the property is located.

- b. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
  - c. That such unnecessary hardship has not been created by the appellant.
  - d. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
  - e. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
2. In granting any variance, the Board may attach such reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this Ordinance and Planning Code.

I. Board's "Special Exceptions" Function

1. Where, in this Ordinance, it is stated that special exceptions may be granted or denied by the Board, the Board shall hear and decide requests for such special exceptions in accordance with the following standards and criteria:
  - a. The requested use must be one allowed by special exception.
  - b. The Board must determine that requested use will preserve the public health, safety, morals and general welfare of the Borough, and in making that determination the Board shall
    - i. Consider whether the requested use will bring about an unwarranted or excessive increase in traffic.
    - ii. Consider whether the requested use will generate a type or volume of traffic that will be unwarranted or excessive in view of congestion.
    - iii. Consider the effect of the requested use upon the character of the immediate neighborhood, taking into consideration all relevant factors including, but not limited to, the conservation of the value of existing buildings and property, and the requested use's consistency with surrounding uses and surrounding zoning.
2. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purpose of this Ordinance.

J. Stay Of Proceeding

Upon filing of any proceeding referred to in Section 16.06D before the Board, and during its pendency before the Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or any agency or body and all official action thereunder shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property; in which case, the development or official action shall not be stayed otherwise than by a restraining order which may be granted by the Board or by the Court of Common Pleas of Northumberland County on petition after notice to the Zoning Officer or other appropriate agency or body.

K. Appeals To Court

1. All appeals from decisions of the Board shall be taken to the Court of Common Pleas of Northumberland County.

2. The procedures set forth in the Planning Code shall constitute the exclusive mode for the review, by appeal, of any decision rendered or deemed to have been made under this Ordinance and the Planning Code. Said procedures provide, among other things, that all appeals to the Court shall be filed within thirty (30) days after entry of the decision or, in case of a deemed decision, within thirty (30) days after the date upon which notice of said deemed decision is given.

***SECTION 16.09 - ZONING ORDINANCE AMENDMENTS***

The Borough Council may, from time to time, on its own motion or on petition or recommendation of the Planning Commission, amend any provisions of this Ordinance in accordance with the following procedure:

- A. Before voting on the enactment of an amendment, Borough Council shall hold a public hearing thereon. Notice of said hearing shall be published once a week for two successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the place of the hearing and the matter to be considered. The first publication shall be not more than thirty (30) days and the second shall not be less than seven (7) days from the date of the hearing. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the Borough at points deemed sufficient by the Borough along the perimeter of the tract at least one (1) week prior to the date of the hearing to notify potentially interested citizens.
- B. In the case of an amendment other than that prepared by the Planning Commission, the Borough Council shall submit each such amendment to the Planning Commission at least thirty (30) days prior to the hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendations.
- C. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised to include land previously not affected by it, Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
- D. At least thirty (30) days prior to the public hearing on the amendment by the Borough Council, the Borough shall submit the proposed amendment to the County Planning Commission for recommendations.
- E. Within thirty (30) days after enactment, a copy of the amendment to the zoning ordinance shall be forwarded to the County Planning Commission.
- F. Notice of the proposed enactment of zoning ordinance amendments shall be given in the following manner, and shall include the time and place of the meeting at which passage will be considered, a reference to a place within the Borough where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The Borough Council shall publish the proposed amendment once in one (1) newspaper of general circulation in the Borough not more than sixty (60) days nor less than seven (7) days prior to passage. Publication of the proposed amendment shall include either the full text thereof or the title and a brief summary, prepared by the Borough solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:
  1. A copy thereof shall be supplied to the newspaper in which the notice is published.
  2. An attested copy of the proposed ordinance shall be filed in the county law library.
  3. In the event substantial changes are made in the proposed amendment, before voting upon enactment, the Borough Council shall, at least ten (10) days prior to enactment, re-advertise a brief summary setting forth all the provisions in reasonable detail together with a summary of the changes.

## ARTICLE XVII

### INTERPRETATION, VALIDITY, REPEALER & EFFECTIVE DATE

#### *Section 17.01 - Conflicting Regulations*

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals and general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards shall govern.

#### *Section 17.02 - Repealer*

All ordinances or parts of ordinances in conflict with this Zoning Ordinance or inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

#### *Section 17.03 - Validity*

Should any section, clause, provision or portion of this Ordinance be held to be invalid or unconstitutional by any Court of competent jurisdiction, such holding shall not affect any other section, clause, provision or portion of this Ordinance which is not in itself invalid or unconstitutional

#### *Section 17.04 - Effective Date*

This Ordinance shall take effect immediately upon adoption and advertisement - the public welfare demanding it.

## ARTICLE XVIII

### WIRELESS COMMUNICATIONS TOWERS & ANTENNAS

#### *Section 18.01 - Purpose*

The purpose of this ordinance is to establish general guidelines for the site of wireless communications towers and antennas. The goals of this ordinance are to:

- A. encourage the location of towers in non-residential areas, where possible;
- B. minimize the total number of towers throughout the community;
- C. strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
- D. encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- E. encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, site, landscape screening, and innovative camouflaging techniques;
- F. enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently,
- G. consider the public health and safety of communication towers;

- H. avoid potential damage to adjacent properties from structural failure of the tower through engineering and careful siting of tower structures; and
- I. permit and manage reasonable access to the public ways for telecommunications purposes on a competitively neutral basis. In furtherance of these goals, the Borough shall give due consideration to the Borough's zoning map, existing land uses, and environmentally sensitive areas in approving sites for the locations of towers and antennas.

***Section 18.02: Definitions***

As used in this ordinance, the following terms shall have the meanings set forth below:

**Alternative tower structure**

means man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

**Antenna**

means any transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

**Backhaul network**

means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switches telephone network.

**Council**

means Council for the Borough.

**FAA**

means the Federal Aviation Administration.

**FCC**

means the Federal Communications Commission.

**Height**

means when referring to a towers or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

**Preexisting towers and preexisting antennas**

means any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

**Tower**

means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

**Telecommunications Overlay District or TO**

means all that property owned, leased, or otherwise controlled by the Borough including its rights of way, and including the rights of way of state highways located in the Borough with the permission of acquiescence of the State.

***Section 18.03: Applicability***

- A. New Towers and Antennas: All new towers and antennas in the Borough shall be subject to these regulations, except as provided in Sections 3(b) through (d) inclusive.

- B. Amateur Radio Station Operators/Receive Only Antennas: This ordinance shall not govern any tower, or the installation of any antenna, that complies with the pertinent height requirement of the Zoning Code, and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receiving only antennas.
- C. Pre-existing Towers or Antennas: Pre-existing towers and pre-existing antennas shall not be required to meet the requirements of this ordinance, other than the requirements of Sections 4(d) and 4(e).
- D. AM Array: For purposes of implementing this ordinance, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM Array. Additional tower units may be added within the perimeter of the AM array by right.

***Section 18.04: General Requirements***

- A. Inventory of Existing Sites: Each applicant for an antenna and/or tower shall provide to Council an inventory of its existing towers, antennae, or sites approved for towers or antennae, that are either within the jurisdiction of the Borough or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Council may share such information with other applicants applying for administrative approvals or special use permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the Borough, provided, however, that the Council is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- B. Aesthetics: Towers and antennas shall meet the following requirements:
  - 1. Towers shall be either blue, reinforced concrete or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
  - 2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
  - 3. If an antenna is installed on a structure or a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- C. Lighting: Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternative and design chosen must cause the least disturbance to the surrounding views.
- D. State or Federal Requirements: All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- E. Building Codes: Safety Standards: To ensure the structural integrity of towers, the owner of a tower shall ensure that it is designed, constructed and maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic industries Association, as amended from time to time. All towers shall be designed by a licensed professional Engineer registered in the State of Pennsylvania and all drawings submitted for

approvals shall be signed and sealed by the same Engineer responsible for the design. All construction shall be supervised by qualified personnel and a certification shall be prepared and presented to the Borough by a licensed professional Engineer registered in the State of Pennsylvania that the design and construction conform to the highest standards of engineering and construction. If, at any time, the Borough concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days, shall constitute grounds for the removal of the tower or antenna at the owner's expense.

- F. Not Essential Services: Towers and antennas shall be regulated and permitted pursuant to this ordinance and shall not be regulated or permitted as public utilities, or private utilities.
- G. Franchises: Owners and/or operators of towers or antennas shall certify that all licenses or franchises required by law for the construction and/or operation of a wireless communication system in the Borough have been obtained and shall file a copy of all required licenses or franchises with the Council.
- H. Public Notice: For purposes of this ordinance, any special exception request or appeal of an administrative decision shall require public notice pursuant to the dictates of the Zoning Code.
- I. Signs: No signs shall be allowed on an antenna or tower, except as required by law.
- J. Support Equipment: The support equipment associated with antennas or towers shall comply with the requirements of Section 8.
- K. Multiple Antenna/Tower Plan: The Borough encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.
- L. Co-location: In order to reduce the number of towers in the Borough in the future, the proposed tower, if required by the Council and/or Zoning Hearing Board, shall be designed to accommodate future other communication users, including commercial wireless communication companies, local police, fire and ambulance companies.
- M. Service to the Borough: A provider of telecommunications service within the Borough shall make its telecommunications services available to the Borough at its most favorable rate for similarly situated users, unless otherwise provided for in a lease, license or franchise agreement.

***Section 18.05 - Administrative Review***

The following provisions shall govern the administrative review of towers and antennas

- A. The Borough shall administratively review each request for the siting and/or erection of any tower or antenna.
- B. Each applicant for administrative review shall in the first instance apply to the Council, providing the information set forth in Sections 7(b)(1) and 7(b)(3) or this ordinance and a non-refundable charge as established by resolution of the Council to reimburse the Borough for the costs associated with reviewing the application. This is in addition to any other applications or fees that may be required.
- C. The Council shall review the application to determine if the proposed use complies with Sections 18.04 and 18.07 (c) of this ordinance. The Council shall also consider the factors set forth at Section 18.07(b)(2) through 18.07(b)(7) inclusive.
- D. In connection with any such administrative review pursuant to Section 18.07, the Council may recommend to the Zoning Hearing Board reduction of the setback requirements in Section 18.07(b)(4) and the separation distances between towers in Section 18.07(b)(5).
- E. In connection with any such administrative approval, the Council may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.

**Section 18.06 Permitted Uses**

A. Telecommunications Overlay District.

A Telecommunications Overlay District is hereby created. This Telecommunications Overlay District applies to all Zoning Districts in the Borough. The Telecommunications Overlay District ("TO") shall consist of property owned, leased or otherwise controlled by the Borough, including its rights of way, and including the rights of way of state highways within the Borough with the permission or acquiescence of the State.

B. Locating antennas or towers within a Telecommunications Overlay District is a use specifically permitted provided that:

1. A license or lease authorizing such antenna or tower has been approved by the Borough, and (2) the Borough has administratively approved the application.
2. The requested use must comply in every way with the Zoning Code, except that there shall be a minimum setback of one hundred (100) feet from any residential property line.

C. All towers and antennae erected, installed or located as a permitted use shall be located so as to minimize the adverse visual impact of the tower and/or antenna.

1. A license or leave authorizing such antenna or tower has been approved by the Borough, acting through its Council;
2. the Council has administratively approved the application; and;
3. the use complies in every other way with the Zoning Code.

D. All towers and antennae erected, installed or located as permitted use shall be located so as to minimize the adverse visual impact of the tower and/or antenna.

**Section 18.07 Special Exception**

A. General. The following provisions shall govern the issuance of a special exception for towers or antennae:

1. If the tower or antenna is not permitted pursuant to Section 18.06 of this ordinance, a special exception shall be required for the construction of a tower or the placement of an antenna in all zoning districts other than Residence districts. Towers and antennae are only allowed in any Residential districts pursuant to Section 18.06.
2. Administrative approval pursuant to Section 18.05 of this ordinance shall be requested at the time an applicant files a request for a special exception.
3. Applications for special exceptions under this Section shall be subject to the procedures and requirements of the Zoning Ordinance, including the usual costs and fees.
4. In granting a special exception, the Zoning Hearing Board (AHB) may impose conditions to the extent the Zoning Hearing Board concludes such conditions are necessary to minimize any adverse effect of the proposed tower or antenna on adjoining properties.
5. Any information of an engineering nature that the applicant submits, whether civil, mechanical or electrical, shall be certified by a licensed professional engineer registered in the State of Pennsylvania.
6. An applicant for a special exception shall submit, in duplicate, the information described in this Section with one (1) copy for the Council and the other copy for the Zoning Hearing Board.

A. Towers:

1. Information required. In addition to any information required for applications for a special exception, applicants for a special exception for a tower shall submit the following information:

- a. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Master Plan classification of the site and all properties within the applicable separation distances set forth in Section 7(b)(5), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking and other information deemed by the Council to be necessary to assess compliance with this ordinance.
  - b. Legal description of the parent tract and leased parcel (if applicable)
  - c. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
  - d. The separation distance from other towers described in the inventory of existing sites submitted pursuant to Section 4(a) shall be shown on an updated site plan on map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
  - e. A landscape plan showing specific landscape materials.
  - f. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
  - g. A description of compliance with Sections 4(a), (b), (c), (d), (e), (g), (i) and (j), 7(b)(5) and all applicable federal, state or local laws.
  - h. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
  - i. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.
  - j. A description of the feasible location(s) of future towers or antennas within the Borough based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
2. Factors Considered in Granting a Special Exception for Towers. In addition to any standards for consideration of special exception applications pursuant to the Zoning Ordinance, the Zoning Hearing Board shall consider the following factors in determining whether to issue a special exception, although the Zoning Hearing Board may waive or reduce the burden on the applicant of one or more of these criteria if the Zoning Hearing Board concludes that the goals of this ordinance are better served thereby:
- a. Height of the proposed tower
  - b. Proximity of the tower to residential structures and residential district boundaries;
  - c. Nature of uses on adjacent and nearby properties;
  - d. Surrounding topography;
  - e. Surrounding tree coverage and foliage;
  - f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - g. Proposed ingress and egress, with particular reference to access via streets in non-residential districts; and
  - h. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Section 7(b)(3) of this ordinance.
  - i. Administrative review and recommendation by the Council pursuant to Section 5.

3. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Zoning Hearing Board that no existing tower, building, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Council related to the availability of suitable existing towers, buildings, other structures or alternative technology. Evidence to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
  - a. No existing towers, buildings or structures are located within the geographic area which meet applicant's engineering requirements.
  - b. Existing towers, buildings or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - c. Existing towers, buildings or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers, buildings or structures, or the antenna on the existing towers, buildings or structures would cause interference with the applicant's proposed antenna.
  - e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
  - f. The applicant demonstrates that there are other limiting factors that render existing towers and structures suitable.
  - g. The applicant demonstrates that an alternate technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
4. Setbacks. The following setback requirements shall apply to all towers and antennae for which a special exception is required; provided, however, that the Zoning Hearing Board may reduce the standard setback requirements if the goals of this ordinance would be better served thereby;
  - a. Towers must be set back a distance equal to at least twice the applicable setback requirements, but in no case less than 50' from any adjoining lot line.
  - b. Guys and accessory buildings must satisfy the minimum zoning setback requirements.
5. Separation. The following separation requirements shall apply to all towers and antennas for which a special exception is required; provided, however, that the Zoning Hearing Board may reduce the standard separation requirements if the goals of this ordinance would be better served thereby.

Separation from off-site uses/designated areas.

  - a. Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated area as specified in Table 1, except as otherwise provided in Table 1.
  - b. Separation requirements for towers shall comply with the minimum standards established in Table 1.

Table 1:

Off-site Use/Designated Area	Separation Distance
Single-family of duplex residential units(1)	500 feet or 300% height of tower whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	500 feet or 300% height of tower (2) whichever is greater
Existing multi-family residential units greater than duplex units	250 feet or 150% height of tower whichever is greater
Non-residentially zoned lands or non-residential uses	None; only setbacks apply

1 - Includes modular homes and mobile homes used for living purposes.

2 - Separation measured from base of tower to closest building setback line.

Separation distances between towers.

- a. Separation distances between towers shall be applicable for and measured between the proposed tower and pre-existing towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

Table 2:

	Existing Towers - Types			
	Lattice	Guyed	Monopole 75 Ft. in Height or Greater	Monopole less than 75 Ft. in Height
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 Ft. in Height or Greater	1,500	1,500	1,500	750
Monopole Less than 75 Ft. in Height	750	750	750	750

6. Security fencing. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the Council or Zoning Hearing Board may waive such requirements, as it deems appropriate.

7. Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special exception is required; provided, however, that the Council or Zoning Hearing Board may waive such requirements if the goals of this ordinance would be better served thereby.
  - a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.
  - b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
  - c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
8. Antennae: The applicant shall demonstrate that the antenna(e) is the minimum height required to function satisfactorily to serve the technical requirements of the applicant.

***Section 18.08: Equipment Storage***

- A. Antennas Mounted on Rooftops: The equipment cabinet or structure used in association with legally-placed antennas mounted on rooftops shall comply with the following:
  1. The cabinet or structure shall not contain more than ten (10) square feet of gross floor area or be more than eight (8) feet in height. In addition, for buildings and structures which are less than sixty-five (65) feet in height, the related unmanned equipment structure, if over ten (10) square feet of gross floor area or eight (8) feet in height, shall be located on the ground and shall not be located on the roof of the structure.,
  2. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than one percent (1 %) of the roof area.
  3. Equipment storage cabinets or cabinets shall comply with all applicable building Codes.
- B. All Other Legally-Placed Antennas: For all other legally-placed antennas, the related unmanned equipment cabinet or structure shall comply with all applicable Building Codes and shall contain no more than sixteen (16) square feet of gross floor area nor be more than twelve (12) feet in height, and may be located:
  1. In front or side yard provided the cabinet or structure is no greater than six (6) feet in height or sixteen (16) square feet of gross floor area and the cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least sixty to sixty-six (60-66) inches and a planted height of at least thirty-six (36) inches.
  2. In a rear yard, provided the cabinet or structure is no greater than six (6) feet in height or sixteen (16) square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate of eight (8) feet and a planted height of at least thirty-six (36) inches.
- C. Modification of Size Requirements: The requirements of Section 8 may be modified by the Council in the case of administrative approvals or by the Zoning Hearing Board in the case of a special exception to encourage collocation.

***Section 18.09: Removal of Abandoned Antennas and Towers***

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Council notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds for the Borough to cause the removal of the tower of antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

***Section 18.10: Nonconforming Uses***

Not expansion of Nonconforming Use: Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

- A. Pre-existing Towers: Pre-existing towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such pre-existing towers. New construction other than routine maintenance on a pre-existing tower shall comply with the requirements of this ordinance.
- B. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas: Notwithstanding Section 9, pre-existing nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special exception and without having to meet the separation requirements specified in Sections 7 (b) (4) and 7 (b) (5). The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained with 180 days from the date the facility is first damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Section 9.

***Section 18.11: Severability***

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any clause, sentence or other provisions of this Ordinance should be declared unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect the remaining provisions of this Ordinance, and the Borough Council declares that it would have adopted this Ordinance had such unconstitutional, illegal or invalid provisions not been contained herein.