

**CHAPTER 27**

**ZONING**

**PART I  
ZONING**

§27-101. Title.....27-2  
§27-102. Purpose..... 27-2  
§27-103. Statement of Community Objectives.....27-3  
§27-104. Official Zoning Map.....27-3  
§27-105. Definitions..... 27-4  
§27-106. Application of District Regulations.....27-18  
§27-107. Establishment of Zoning Districts..... 27-19  
§27-108. R-1 Residential District..... 27-20  
§27-109. R-2 Residential District..... 27-22  
§27-110. C-1 Commercial..... 27-24  
§27-111. C-2 Commercial.....27-27  
§27-112. I Industrial.....27-29  
§27-113. I-2 Industrial..... 27-31  
§27-114. Historic Overlay District..... 27-33  
§27-115. Supplemental Regulations.....27-34  
§27-116. Conditional ..... 27-48  
§27-117. Uses by Special Exemption..... 27-57  
§27-118. Minimum Parking Loading Requirements..... 27-62  
§27-119. Signs..... 27-66  
§27-120. Zoning Hearing Board.....27-72  
§27-121. Nonconformance..... 27-83  
§27-122. Administration and Enforcement.....27-85  
§27-123. Amendments to the Ordinance..... 27-90  
§27-124. Schedule of Fees.....27-96  
§27-125. Constitutionality and Invalidity.....27-97  
§27-126. Repeal of Conflicting Ordinances..... 27-97  
§27-127. Effective Date.....27-97

**PART II  
ZONING MAP**

**PART I**  
**ZONING**

**SECTION 27-101. Title**

This Ordinance and Map shall be known as, and may be cited as “The Harmony Borough Zoning Ordinance” in accordance with and exercising the authority of the Pennsylvania Municipalities Planning Code, Act 247, as amended, to:

- A. Regulate and restrict the location and use of buildings, structures and land for residence, agriculture, trade, commerce, industrial and other purposes;
- B. Regulate the height, number of stories, size and placement of buildings and other structures; and
- C. Divide the Borough into districts of such size, shape and area, and to establish such official maps as may be deemed best suited to carry out the regulations and provide for their enforcement.

*(Ord. 372, 6/7/2005, §101)*

**SECTION 27-102. Purpose**

Such regulations are deemed necessary in order:

- A. To promote the interest of health, safety, morals and the general welfare;
- B. To secure safety from fire and to provide adequate open spaces for light and air;
- C. To conserve and stabilize property values;
- D. To prevent pollution and erosion of natural resources and preserve steep slopes and wooded areas from conflict with urban development;
- E. To facilitate the economic provision of adequate transportation, water supply, sewage collection, schools, parks and other public requirements; and
- F. To prevent blight and to lessen the possibility of danger and congestion in travel and transportation, overcrowding of land, and loss of health, life or property from fire, flood, panic and other dangers.

*(Ord. 372, 6/7/2005, §102)*

**SECTION 27-103. Statement of Community Objectives**

In addition to the general purposes and intents behind adoption of this Ordinance by Harmony Borough as noted in Section 27-201, development objectives, identified in the Borough's Comprehensive Development Plan of 1969 as essential to orderly growth and change throughout the Borough, have been considered as a basis upon which the regulations and controls of this Ordinance are derived.

- A. The physical values that make up Harmony Borough's unique historical heritage, compact residential scale and small town atmosphere should be preserved and enhanced.
- B. New housing should relate spatially to the existing arrangement but should be located so as to provide adequate light and air to all dwelling units.
- C. Housing density should be no greater than can be supported by services the Borough can provide, including sewer, water, storm drainage and street capacity.
- D. A range of housing types such as single-family homes, duplexes, town houses, garden apartments, mobile homes and others should be accommodated to reflect the changing needs of those seeking housing in the Borough.
- E. Commercial areas should be developed so as to provide safe ingress and egress for customers, to have access to adequate off-street parking and to avoid congestion in adjacent streets.
- F. Industrial development should result in activities without a harmful impact upon the Borough residents and should provide adequate off-street parking and loading areas and safe access.
- G. The arrangement of land uses throughout the Borough should result in compatible relationships that enhance the value of each land use type.
- H. Areas of steep slopes or susceptible to flooding and/or high water table conditions should be developed only with the greatest care and then only so as to guarantee prevention of erosion and pollution of water resources and to result in minimum damage from inundation.

*(Ord. 372, 6/7/2005, §103)*

**SECTION 27-104. Official Zoning Map**

- A. The Borough is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

- B. The Official Zoning Map shall be identified by the signature of the President of the Borough Council, attested by the Borough Secretary and shall bear the seal of the Borough under the following words; "This is to certify that this is the Official Zoning Map referred to in Section I of Ordinance Number 223 and 372 of the Borough of Harmony, Butler County, Pennsylvania", together with the date of adoption of this Ordinance.
- C. No changes of any nature shall be made to the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person shall be considered a violation of this Ordinance and punishable as provided under Section 27-121 of this Ordinance.
- D. The Official Zoning Map, which shall be located in the Borough Office, shall be the final authority as to the current Zoning status of land and water areas, buildings, and other structures in the Borough.
- E. Interpretation of Zone Boundaries - where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:
  - 1. Boundaries indicated as appearing to follow the centerlines of streets, highways, or alleys shall be construed to follow such centerlines;
  - 2. Boundaries indicated as appearing to follow recorded lot lines shall be construed as following such lot lines;
  - 3. Boundaries indicated as appearing to follow Borough limits shall be construed as following Borough limits;
  - 4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
  - 5. Boundaries indicated as approximately following the centerlines of streams, rivers or other bodies of water shall be construed to follow such centerlines, and in the event of change in the location of streams, rivers and other bodies of water, shall be construed as moving with the actual body of water and following the centerline.

*(Ord. 372, 6/7/2005, §104)*

#### **SECTION 27-105. Definitions**

For the purposes of this Ordinance, certain terms or words used herein are defined as follows:

- A. Person or Developer includes a firm, association, organization, partnership, trust, company or corporation as well as an individual;
- B. The present tense includes the future tense;
- C. The singular number includes the plural and the plural number includes the singular;
- D. The word shall is mandatory;
- E. The word may is permissive;

- F. The words Used or Occupied include the words INTENDED, DESIGNED or ARRANGED TO BE USED or OCCUPIED.
- G. Words generally found in legal terminology shall be considered to have meanings in this Ordinance similar to their generally held definitions in a court of law.
- (1) **ACCESS AISLE:** The drive within a parking lot directly abutting parking spaces and designed to provide a connection between the spaces and the public street or an access street.
  - (2) **ACCESS STREET (LANE OR DRIVE):** A vehicular way on private property designed to provide connection between the public street and activities within the property.
  - (3) **ACCESSORY STRUCTURE:** A subordinate structure detached from, or attached to, the principal structure, but located on the same lot as the principal structure. The use of an accessory structure must be accessory to the use of the principal structure.
  - (4) **ACCESSORY USE:** An activity carried on within a property that is not the principal activity permitted there but is generally found in connection with or incidental to the principal use.
  - (5) **ADULT BOOKSTORE:** Any establishment which has a subsection or significant portion of its stock in trade: (A) Books, films, magazines or other periodicals or other forms of audio or visual representation which are distinguished or characterized by an emphasis on depiction or description as specified sexual activities or specified anatomical areas; (B) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.
  - (6) **ADULT CABARET:** A nightclub, theater, bar or other establishment which features live or media representations of performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
  - (7) **ADULT MINI MOTION PICTURE THEATER:** An enclosed or unenclosed building with a capacity of more than five (5) but less than fifty (50), persons used for presenting any form of audio or visual material, and in which a substantial portion of the total presentation times measured on an annual basis is devoted to the showing of material which is distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.
  - (8) **ADULT MODEL STUDIO:** Any place where, for any form of consideration or gratuity, figure models who display specified anatomical areas are provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by persons paying such consideration or gratuity, except that this provision shall not apply to any "figure studio" or "school of art" or similar establishment which meets the requirements established in the Education Code of the Commonwealth of Pennsylvania for the issuance or conferring of and is, in fact, authorized there under to issue and confer a diploma.

- (9) **ADULT MOTEL:** A motel or similar establishment offering public accommodations for any consideration, which provides patrons with material distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.
- (10) **ADULT MOTION PICTURE ARCADE:** Any place to which the public is permitted or invited wherein coin or slug operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.
- (11) **ADULT MOTION PICTURE THEATER:** An enclosed or unenclosed building with a capacity of fifty (50) or more persons used for presenting any form of audio or visual material, and in which a substantial portion of the total presentation time measured on an annual basis is devoted to the showing of material which is distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.
- (12) **ADULT NEWS RACK:** Any coin-operated machine or device that dispenses material substantially devoted to the depiction of specified sexual activities or specified anatomical areas.
- (13) **ADULT THEATER:** A theater, concert hall, auditorium or other similar establishment, which regularly features live performances which are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas for observation by patrons.
- (14) **AGRICULTURAL OPERATION:** An enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock products and in the production, harvesting and [preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry.
- (15) **ALLEY:** A thoroughfare, whether public or private, that affords only a secondary means of access to abutting property and is not intended for general traffic circulation.
- (16) **ALTERATION:** The extension, diminution, moving or re-arrangement of an existing structure, including revisions to the interior partition arrangement that is not visible from outside.
- (17) **AMENDMENT:** A change in this Ordinance, including addition of new requirements, revision of existing requirements or deletion of obsolete requirements, necessitating public hearings and other approvals before becoming effective.
- (18) **APARTMENT:** A room or suite of rooms in a building containing at least one (1) other dwelling unit, and a maximum of eight (8) dwelling units, with its own cooking, bathing and toilet facilities and access directly or via a common hall to the outside.

- (19) **APPEAL:** A plea to a higher body or court on the part of an aggrieved person, as the result of a decision or determination of a lower board, commission or individual charged with making the determination or decision being contested.
- (20) **APPLICANT:** A landowner or developer, as hereinafter defined, who has filed an application for development including his heirs, successors and assigns.
- (21) **APPLICATION FOR DEVELOPMENT:** Every application, whether preliminary, tentative or final, required to be filed and approved prior to start of construction or development including, but not limited to, an application for a building permit, for the approval of a subdivision plat or plan or for the approval of a development plan.
- (22) **BOARD:** Any body granted jurisdiction under a land use ordinance or under the Pennsylvania Municipalities Planning Code, Act 247, as amended, to render final adjudications.
- (23) **BOROUGH ENGINEER:** A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for the Borough of Harmony, or its Planning Commission.
- (24) **BOUNDARY:** A line, usually a property or street right-of-way line or the centerline of a recognizable physical feature such as a highway, stream or railroad that demarcates the edge of a district or area.
- (25) **BUILDING:** A roofed structure covering a space, which shall be considered an “enclosed” building if all exterior walls are solid except for fixed closed or operable windows and doors.
- (26) **BUFFERYARD:** An area of land which is planted and maintained in shrubs, bushes, trees, grass or other groundcover material and within which no structure or building shall be authorized except a wall or fence that meets Borough requirements.
- (27) **BUILDING LINE:** A line describing the extent of the area in a building lot within which construction can occur. The setback distance from front, side and rear property lines determines the building line.
- (28) **BUILDING LOT:** A piece of land, in one ownership, suitable for construction thereon in accordance with the requirements of this Ordinance.
- (29) **BUILDING PERMIT:** Documentation attesting that a proposal for construction meets all requirements of this Ordinance and other applicable requirements relative to development and allowing such proposed construction to commence.
- (30) **CENTERLINE:** An imaginary line running parallel to street or easement rights-of-way lines and equal distance from the lines on each side of the street or easement, or a line following the center of a physical feature such as a stream.
- (31) **CHANGE OF ZONE:** The redesignation of a property or properties from one zoning classification and the assignment of said property or properties to another zoning classification.

- (32) **CLEAR SIGHT TRIANGLE:** An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the intersection of street lines.
- (33) **COMMON OPEN SPACE:** A parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of a development, not including streets, off-street parking areas, and areas set aside for public facilities.
- (34) **COMMUNICATION ANTENNA:** A device attached to a building, structure or Communications Tower, principally intended for receipt or transmission of signals for such uses as commercial or public VHF or UHF television, AM or FM radio, two-way radio, commercial carriers, cellular telephone, fixed-point microwave or lower power television, including accessory equipment related to the communication applications. Not included are antennae for private, noncommercial and amateur purposes, including, but not limited to, ham radios and citizens band radios.
- (35) **COMMUNICATION FACILITY:** Any communications building, structure, tower or antenna operated by any person, agency or corporation not otherwise a public utility regulated by the Pennsylvania Public Utilities Commission (PUC), who or which provides any type of communications services.
- (36) **COMMUNICATION TOWER:** A freestanding structure, including any guy wires, principally intended to support facilities for receipt or transmission of signals for uses such as commercial or public VHF or UHF television, AM or FM radio, two-way radio, commercial carriers, cellular telephone, fixed-point microwave, low power television including accessory equipment related to the communication application. Not included are towers and supportive structures for private, noncommercial and amateur purposes, including, but not limited to, ham radios and citizen band radios.
- (37) **COMPREHENSIVE PLAN:** A document based on a study and analysis of the Borough projecting growth and change and recommending measures to cope with such growth and change.
- (38) **CONDITIONAL USE:** A use permitted in a particular zoning district pursuant to the provisions in Article VI of the Pennsylvania Municipalities Planning Code, Act 247, as amended.
- (39) **CONSISTENCY:** An agreement or correspondence between matters being compared which denotes a reasonable rational, similar, connection or relationship.
- (40) **CONTOUR:** A line that joins all points of equal elevation on the ground.
- (41) **CONSTRUCTION DOCUMENTS:** The final drawings and specifications for a structure upon which construction is authorized to proceed.
- (42) **CONVERSION APARTMENT:** A dwelling unit established from a portion of a larger unit, containing all the facilities normally found in a dwelling including adequate heat, light, ventilation and means of egress.



- (43) **CORNER LOT:** A property which abuts two (2) or more intersecting public street rights-of-way from each of which buildings on the property must be set back the normal front yard distance for the zoning district in which such property is located.
- (44) **CORNICE LINE:** The horizontal line described by the top of a parapet or other highest continuous visible line on a flat-roofed building.
- (45) **COUNCIL:** The Borough Council of the Borough of Harmony, Butler County, Pennsylvania.
- (46) **COVENANT:** An agreement or obligation defined by law or agreement, the violation of which can be restrained by court action. These are usually stated in the deed.
- (47) **DECISION:** Final adjudication of any board or other body granted jurisdiction under any land use ordinance or the Pennsylvania Municipalities Planning Code, Act 247, as amended, to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions may be appealed to the Court of Common Pleas of the county and judicial district wherein the municipality lies.
- (48) **DECK:** An attachment to the exterior of a principal residential use or structure primarily used for private recreation. This attachment is considered a part of the principal structure for the purpose of determining a minimum setback.
- (49) **DENSITY:** The measure of openness or compactness per unit area relative to number of inhabitants, dwelling units or buildings on a property.
- (50) **DETACHED DWELLING:** A separate structure containing only the facilities normally found in one dwelling unit and designed for occupancy by one family only.
- (51) **DETERMINATION:** Final action by an officer, body or agency charged with the administration of any land use ordinance or applications thereunder, except the following:
- a. Borough Council;
  - b. The Zoning Hearing Board; or
  - c. The Planning Commission, only if and to the extent the planning agency is charged with final decision on preliminary or final plans under the subdivision and land development ordinance or planned residential development provisions.
  - d. Determinations shall be appealable only to the boards designated as having jurisdiction for such appeal.
- (52) **DEVELOPER:** Any landowner, agent of such landowner, or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development.
- (53) **DEVELOPMENT PLAN:** The provisions for development, including a planned residential development, a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways, and parking facilities, common open space and public facilities. The phrase “provisions of the development plan” when used in the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended, shall mean the written and graphic materials referred to in this definition.

- (54) **DOUBLE FRONTAGE LOT:** A lot whose front and rear yards abut public streets, one of which may be an alley.
- (55) **DRAINAGEWAY:** A depression across the ground surface that collects water run-off from surrounding land and carries it to a larger stream, or to an underground pipe serving the same purpose.
- (56) **DWELLING:** A building designed exclusively for residential purposes for one or two or more families on a permanent basis. Where such a dwelling is a mobile home, it shall be firmly established upon a permanent masonry foundation and the area between the floor and ground level below the mobile home shall be completely enclosed by a rigid material.
- (57) **DWELLING UNIT:** A group of rooms, whether in a separate structure, duplex, town house garden apartment or conversion apartment building, including in each unit bathing, toilet and cooking facilities for the exclusive use of the residents of the dwelling unit only.
- (58) **EASEMENT:** A right of way granted across private property, generally for public utility lines or for access to other properties beyond, passage over which is guaranteed by the grantor to those using the easement.
- (59) **EAVE LINE:** The horizontal line formed by the intersection of a gable or hipped roof and the walls of a building.
- (60) **EGRESS:** At least two (2) alternate means remotely located from one another, by which residents of a dwelling unit can leave the building, such means leading directly or by stairs and a common hallway to ground level outside.
- (61) **ESSENTIAL SERVICES:** Services provided by public and private utilities, necessary for the function of the principal use or service of the principal structure including, but not limited to, gas, electrical, water, sanitary sewerage, stormwater drainage and communications systems, accessories such as poles, wires, drains, vaults, laterals, pipes, towers, conduits, storage tanks, pumps and call boxes.
- (62) **FAMILY:** An individual or two (2) or more persons related by blood, marriage or adoption or a group of not more than five (5) persons who are not related, not including household workers, living together in a dwelling unit.
- (63) **FINAL APPROVAL:** Acknowledgment by Harmony Borough that all procedures required prior to acceptance of a development proposal have been successfully completed and that the municipality agrees to the carrying out of the proposal as presented.
- (64) **FLOOR AREA:** The total area, measured from the inside faces of exterior walls, of all floors of a building above the ground level or with any direct, at-grade access to ground level.
- (65) **FORESTRY:** The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes, which does not involve any land development.

- (66) **FRONTAGE:** The distance between side property lines of any property, measured along the right-of-way line of the street to which the property has access.
- (67) **FRONT BUILDING LINE:** An imaginary line across the front of a property between side property lines parallel to the street right-of-way line and distant from it the depth of the required front yard setback for the zoning district in which the property is located.
- (68) **FRONT LOT LINE:** An imaginary line describing the limits of a property along the street to which the property has access, except that where a property extends to the street center line, the front lot line shall be considered as being one-half (1/2) of the width of the legal right of way inside the property and parallel to the street center line.
- (69) **FRONT YARD:** The area of any property between the front lot line and front building line.
- (70) **GARDEN APARTMENT BUILDING:** A multi-family residential building of no more than three (3) stories in height with access to a public street via a common hallway and stairways.
- (71) **GOVERNING BODY:** The Harmony Borough Council.
- (72) **GROSS FLOOR AREA:** The total horizontal floor area on all levels at or above grade enclosed within the walls of a building.
- (73) **GRADING:** The process of changing the natural surface of the land in order to carry out a development plan, or to improve a lot.
- (74) **HABITABLE ROOM:** An area within a dwelling unit, partly or wholly separated from other areas in the unit and set aside for such principal functions as eating, sleeping, bathing and cooking.
- (75) **HEATING:** Adequate heating shall be considered the maintenance of seventy (70) degrees Fahrenheit in all areas of a dwelling unit when the exterior temperature is zero (0) degrees Fahrenheit.
- (76) **HEIGHT:** The vertical distance at some point along the wall of a building measured between the average of the highest and lowest elevation at ground level on the front or rear facade, whichever has the lower ground elevations, and the top of the parapet on a flat roof building or halfway between the eave and highest ridge line on a sloped roof building.
- (77) **HIDDEN SOURCE:** A location for lighting a sign or other object on a property that is designed so that the lights themselves are not visible from any point outside the property.
- (78) **HOME BASED BUSINESS (NO IMPACT):** A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements:
- a. The business activity shall be compatible with the residential use of the property and surrounding residential uses.

- b. The business shall employ no employees other than family members residing in the dwelling.
  - c. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
  - d. There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
  - e. The business activity may not use any equipment or process that creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
  - f. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
  - g. The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.
  - h. The business may not involve any illegal activity.
- (79) **HOME OCCUPATION:** An occupation, profession or limited commercial activity administered or conducted as an accessory use, which is clearly secondary and incidental to the use as a residential dwelling and which does not involve customer, client or patient traffic, or pickup, delivery or removal functions in excess of those normally associated with residential use.
- (80) **INDUSTRIAL, LIGHT:** A use engaged in research and development or the manufacture, processing, packaging, assembly and/or treatment of finished or semi-finished products from previously prepared materials.
- (81) **KENNEL (Commercial):** The boarding, breeding, raising, grooming or training of more than four (4) dogs, cats or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain.
- (82) **KENNEL (Private):** The keeping, breeding, raising, showing or training of up to four (4) dogs over six (6) months of age for the personal enjoyment of the owner or occupants of the property, and for which commercial gain is not the primary objective.
- (83) **LAND DEVELOPMENT:** Any of the following activities:
- a. The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:
    - i. A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
    - ii. The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

- b. A subdivision or land.
  - c. Development in accordance with Section 503(1.1) of the Pennsylvania Municipalities Planning Code, Act 247, as amended.
- (84) **LANDOWNER:** The legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in land.
- (85) **LIGHTING** (Interior or Exterior): The provision of illumination distributed over a floor area or on exterior wall surfaces, yards, or impervious surfaces at grade. (See Section 115).
- (86) **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.
- (87) **LOT LINE:** The boundary line describing the limits of a property and separating it from adjacent properties or a public street or way.
- (88) **LOADING AREA:** An area of a property on which activities are of such a nature to require continuous receiving and/or shipping of goods, such area to be used exclusively for loading and not to interfere with other vehicular or pedestrian circulation on the property.
- (89) **MANEUVERING SPACE:** A portion of a loading area set aside so that trucks may enter and leave said area moving in a forward direction and without backing into an abutting right-of-way.
- (90) **MANUFACTURING, LIGHT:** The manufacture, predominantly from previously prepared materials, of finished products or parts, the processing (including food), fabrication, assembly, treatment and packaging of such products. Light manufacturing shall include, but is not limited to the manufacture of clothing, cosmetics, drugs, electrical goods, furniture, hardware, jewelry, optical or musical instruments, tools, and scientific equipment and the fabrication of metal products from material prepared elsewhere.
- (91) **MASSAGE ESTABLISHMENT:** Any establishment or business which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy, unless operated by a medical practitioner, chiropractor or professional physical therapist licensed by the Commonwealth. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.
- (92) **MEDIATION:** A voluntary negotiating process in which parties in a dispute mutually select a neutral mediator to assist them in jointly exploring and settling their differences, culminating in a written agreement which the parties themselves create and consider acceptable.

- (93) **MINERALS:** Any aggregate or mass of mineral matter, whether or not coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat and crude oil and natural gas.
- (94) **MOBILEHOME:** A transportable, single family dwelling intended for permanent occupancy, contained in one (1) unit, or in two (2) 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.
- (95) **MOBILEHOME LOT:** A parcel of land in a mobilehome park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobilehome.
- (96) **MOBILEHOME PARK:** A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobilehome lots for the placement thereon of mobilehomes.
- (97) **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 it is located by reasons of such adoption or amendment.
- (98) **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.
- (99) **NONCONFORMING USE:** A use, whether of land or 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.
- (100) **OCCUPANCY PERMIT:** A certificate issued by the Zoning Officer attesting to the fact that all requirements of this Ordinance and other applicable regulations have been met and that the building for which the permit applies may be occupied by its owners or tenants.
- (101) **OFF-STREET PARKING SPACE:** A well drained gravel or paved area of a size specified by this Ordinance wholly outside any public street but with direct access via a driveway or access aisle to a public street.
- (102) **OVERLAY ZONE:** A zoning district that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone.

- (103) **PARAPET:** A low wall projecting above the roof of a flat-roofed building, usually as an extension of the sidewalls.
- (104) **PATIO:** A paved, at-grade open area without a permanent covering, no part of which shall be greater than three (3) feet above adjacent ground level.
- (105) **PARKING AREA / LOT:** An open area for individuals / businesses to leave their vehicles while participating in other activities. (6/5/2007)
- (106) **PERMITTED USE:** An activity that is expressly allowed to occur on a property because of the property's location in a particular zoning district.
- (107) **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, type of dwelling, or use, density, or intensity, lot coverage and required open space to the regulations established in any one district created, from time to time, under the provisions of a municipal zoning ordinance.
- (108) **PORCH:** An attachment to the exterior of a principal residential use or structure primarily used for private recreation. This attachment is considered a part of the principal structure for the purpose of determining a minimum setback.
- (109) **PRINCIPAL PERMITTED USE:** The single primary or predominant use to which a property is or may be devoted and to which all other uses on the property are accessory.
- (110) **PROPERTY:** A tract of contiguous land surface, all sections of which are in the same ownership, surrounded by a boundary that closes on itself.
- (111) **PROPERTY LINE:** All or a part of the boundary describing the limits of a property.
- (112) **PUBLIC GROUNDS:** Includes:
- a. Parks, playgrounds, trails, paths and other recreational areas and other public areas;
  - b. Sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities; and
  - c. Publicly owned or operated scenic and historic sites.
- (113) **PUBLIC HEARING:** A formal meeting held pursuant to public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with the Pennsylvania Municipalities Planning Code, Act 247, as amended.
- (114) **PUBLIC MEETING:** A forum held pursuant to notice under 65 Pa. C.S. CH. 7 (relating to open meetings).
- (115) **PUBLIC NOTICE:** Notice published once each week for two (2) successive weeks in a newspaper of general circulation in the municipality. 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 (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

- (116) **PUBLIC STREET:** A right of way dedicated to public use as part of the municipal circulation system and accepted by the municipality for maintenance.
- (117) **PUBLIC UTILITY:** A service distributing water, gas, electricity, or collecting sewage by means of a network of overhead or underground lines and requiring pumping, regulating, transforming, switching and other devices at various locations to maintain efficiency of the system, provided by a publicly-regulated utility.
- (118) **REAR YARD:** The area of any property between the rear line of the property and the rear setback line parallel to it.
- (119) **RECORDED STREET:** A street within a development plan that has been recorded in a plan but not necessarily accepted for maintenance by the municipality.
- (120) **REHEARING:** The reconsideration after a specified time period by a municipal governing or appointed body of a grievance previously decided not in favor of the person bringing the original appeal but requested by him for review because of changed circumstances or new information affecting the original appeal.
- (121) **REPEAL:** The removing from force or effect of a section of an ordinance or an entire ordinance previously passed by a municipal governing body but subsequently rescinded by official action of the body.
- (122) **REPORT:** Any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to any proceeding upon request, and copies thereof shall be provided at cost of reproduction.
- (123) **REQUIRED PARKING:** The number of necessary off-street parking spaces to serve a specific use, generally on the same property as the use.
- (124) **RESIDENTIALLY RELATED USE:** An activity that is normally associated with family rather than business relationships, is usually non-profit and provides community benefit by its location within a residential area.
- (125) **RETAIL, GENERAL:** Establishments that sell or rent commonly used goods and merchandise for personal or household use.
- (126) **RETAIL, SPECIALTY:** Commercial retail shops catering to a specific market and/or linked together by an architectural, historical or geographic theme, or by a commonality of goods and services.
- (127) **RIGHT-OF-WAY:** Land reserved for use as a street, alley, interior walk, or other public purpose.
- (128) **SEMI-PUBLIC:** Any activity that is operated for the benefit of a membership or group on a nonprofit basis that does not rely on public funds for its operation.



- (129) **SETBACK:** A distance prescribed for each zoning district established by this Ordinance measured from any property line to a parallel line within the property, describing the limit of construction on the property and defining the required front, side and rear yards.
- (130) **SIDE YARD:** The area of any property bounded by the required front and rear yards and the side property line and parallel side setback line.
- (131) **SIDE PROPERTY LINE:** The lines on each side of a property intersecting the front and rear property lines.
- (132) **SIGN:** Any device (including, but not limited to, letters, words, numerals, figures, emblems, pictures, or any part or combination) used to visually communicate a message. Permitted sign types are as follows:
- a. Free-standing sign - has its own structure for support of its entire weight and any other stresses on it;
  - b. Temporary sign - intended to remain in place for a specific period of time, at the conclusion of which it shall be removed by the person erecting it (can be either free-standing or wall mounted); or

- c. Building or wall-mounted sign – Attached to the surface of a wall, including projecting signs and awnings.
- (133) **SITE:** A land surface, not necessarily a complete property and possibly several properties, developed or proposed for a specific use.
- (134) **SPECIAL EXCEPTION:** A use permitted in a particular zoning district pursuant to the provisions of Articles VI and IX of the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended.
- (135) **SPECIFIED ANATOMICAL AREAS:** Includes any of the following: (i) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola; or (ii) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (136) **SPECIFIED SEXUAL ACTIVITIES:** Includes any of the following: (i) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation or unclothed genitals, flagellation or torture in the context of a sexual relationship, and any of the following depicted sexually oriented acts or conduct; anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piguerism, sapphism, zoerasty; or (ii) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or (iii) use of human or animal masturbation, sodomy, oral copulation, coitus, ejaculation; or (iv) Fondling or touching of nude human genitals, public region, buttocks or female breasts.
- (137) **STORAGE AREA / LOT:** An open area for individuals / businesses to leave vehicles or other materials until they are consumed, transformed, or repaired. (6/5/2007)
- (138) **STREET:** Includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley viaduct and any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private.
- (139) **STREET RIGHT-OF-WAY:** The recorded strip of land containing a street and bounded by right-of-way lines.
- (140) **STRUCTURE:** Any manmade object, excluding fences, having an ascertainable stationary location on or in land or water, whether or not affixed to the land.
- (141) **SUBDIVISION:** The division or redivision of a lot, tract or parcel of land by any means into two (2) or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

- (142) **SUBSTANTIALLY COMPLETED:** Where, in the judgment of the municipal engineer, at least ninety percent (90%) (based on the cost of the required improvements for which financial security was posted pursuant to Section 509 of the Pennsylvania Municipalities Planning Code, Act 247, as amended) of those improvements required as a condition for final approval have been completed in accordance with the approved plan, so that the project will be able to be used, occupied or operated for its intended use.
- (143) **SUPPLEMENT:** Any addition to an Ordinance either to amplify existing requirements or to add additional controls requiring the same procedures as for amendment.
- (144) **TOWNHOUSE:** A dwelling unit within a group of at least three (3) similar units fronting on a public street, attached to adjacent units at a common party wall, having direct access to the outside at ground level and arranged to be no more than two (2) rooms in depth front to back.
- (145) **TWO-FAMILY DWELLING:** A structure designed for two (2) dwelling units, occupied by two (2) families, whether side by side or one above the other, with each unit having separate access to the outside.
- (146) **VARIANCE:** Relief granted pursuant to the provisions of Articles VI and IX of the Pennsylvania Municipalities Planning Code, Act 247, as amended.
- (147) **VENTILATION:** Operable window area equal to or exceeding one twentieth (1/20) of the floor area shall be considered adequate for ventilation in any room.
- (148) **YARD:** The area of a property between property lines and setback lines, of dimensions as noted in the bulk and dimensional requirements of this Ordinance for each zoning district within which enclosed buildings, or any enclosed portion thereof, cannot be constructed.
- (149) **ZONING CLASSIFICATION:** The combination of controls and requirements that define the activities that may occur in a zoning district.
- (150) **ZONING DISTRICT:** A contiguous area of land on all parts of which the same uniform controls and requirements for development apply.
- (151) **ZONING DISTRICT BOUNDARY:** The perimeter line completely enclosing a zoning district.
- (152) **ZONING HEARING BOARD:** A board appointed by the governing body of the municipality to examine appeals for relief from strict conformance of application of this Ordinance and to hear testimony regarding the validity of any regulations upon development in the municipality.
- (153) **ZONING MAP:** The official plan of zoning districts in the municipality and a part of this Ordinance, showing precisely the boundaries and title of each zoning district.
- (154) **ZONING OFFICER:** The individual authorized by the Borough of Harmony to be the administrator of the daily application of the provisions contained in the Zoning Ordinance. The Zoning Officer shall hold no elective office, have a working knowledge of zoning and meet the qualifications established for the position by the Borough Council.

(155) **ZONING ORDINANCE:** The officially adopted Zoning Ordinance of Harmony Borough and all subsequent amendments thereto.

(*Ord. 372, 6/7/2005, §105*)

#### **SECTION 27-106. Application of District Regulations**

The regulations set by this Ordinance within each district shall apply uniformly to each class or kind of structure or land.

- 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 of the regulations specified in this Ordinance for the district in which it is located.
- B. No building or other structure shall hereafter be erected or altered:
  - To exceed the height;
  - To accommodate or house a greater number of families;
  - To occupy a greater percentage of lot area;
  - 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 adjacent to or in connection with any building for compliance 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.
- E. All territory which may hereafter be annexed to the Borough shall be placed in the R-1 Residential Zoning District classification until the Planning Commission has made a thorough study of the newly annexed area, reported its recommendations to the Borough Council, and the Council has adopted a final zoning district classification. This study and report by the Planning Commission shall be made within three (3) months of the time of annexation.

(*Ord. 372, 6/7/2005, §106*)

#### **SECTION 27-107. Establishment of Zoning Districts**

Harmony Borough is hereby divided into six (6) classes of zoning districts and one (1) overlay zoning district as shown graphically on the Zoning Map, a part of this Ordinance. These classes of districts, together with the general objectives for establishing each are as follows:

- A. **Residential R-1.** The areas within the R-1 zoning districts contain most of the land of the Borough and the bulk of the present housing as well as the remaining large areas of open space. The R-1 district is designed exclusively for residential single-family use and appropriate residentially related uses, maintaining present densities.
- B. **Residential R-2.** The areas within the R-2 zoning districts are located adjacent to community facilities and services -- main roads, shopping, schools, churches and recreation areas -- and already contain some multiple family housing. The R-2 district is considered the best location for multiple family housing, basically town houses and garden apartments, because of location although all residential and residentially related uses are permitted.
- C. **Commercial C-1.** The areas within the C-1 zoning districts are along the major highway serving the Borough. Permitted uses in the C-1 district allow a wide range of commercial activities including automotive sales and services as well as a variety of residential uses.
- D. **Commercial C-2.** The areas within the C-2 zoning districts occupy the land around the Diamond in the old section of the Borough. The C-2 district is basically a neighborhood commercial district with related parking and residential uses designed to serve the residents in the Borough and be appropriate to the historic area, which is at the heart of the C-2 district.
- E. **Industrial I.** The areas within the I zoning districts have railroad access and are either already used for manufacturing purposes or are largely vacant and in the path of industrial growth. Activity to be encouraged in the I zone should be compatible with present development and would have a minimum effect upon the residential areas that are adjacent to the industrial zone.
- F. **Industrial I-2.** The area within the I-2 Zoning District is situated to the east of the Interstate 79 right-of-way and accessible from interior roadways. Planned industrial development is encouraged and the separation of uses caused by the Interstate 79 right-of-way will lessen the impact of nonresidential development on the residential neighborhood to the west.
- G. **Historic Overlay District.** The areas within the Historic Overlay District are located within the Harmony Historical District, created under the authorization of the Pennsylvania Historic District Act.

Within the various zones as indicated on the Official Zoning Map and subject to the Bulk and Dimensional Requirements of Sections 27-108 through 27-114, no land, building or structure shall be used and no building or structure shall be erected which is intended or designed to be used in whole or in part, except for any of the uses permitted in each zone as listed in Sections 27-108 through 27-114.

(Ord. 372, 6/7/2005, §107)

**SECTION 27-108. R-1 Residential District**

Purpose: The purpose of the R-1 District is to provide areas for the development of residential, single family land uses, while preserving areas of open space and maintaining the present densities regulating development.

**A. Permitted Principal Uses:**

1. Single family detached dwelling.
2. Churches and other places of worship, including parish houses, educational buildings and required parking.
3. Schools, both public and private, with parking, provided such schools are accredited by the Commonwealth.
4. Municipal and public utility service buildings, structures, facilities and outdoor recreation areas.
5. Nursery or agricultural field operations, including greenhouses and similar structures and seasonal sales of products produced on the same property only, if such property is at least two (2) acres.
6. Forestry.

**B. Permitted Accessory Uses:**

1. Home based businesses (no impact)
2. Private garages and parking areas.
3. Signs (See Section 27-119).
4. Private garden and similar minor residentially related structures.
5. Private kennels or other appropriate housing for the domestic pets of the residents of the property only.

**C. Special Exceptions:**

1. Conversion apartments (See Section 27-117, Subsection B.3).
2. Nursing homes, sanitariums, retirement or convalescent homes licensed by the Commonwealth containing facilities for not more than forty (40) residents on at least one (1) acre of property plus one thousand (1,000) square feet for each additional resident, with all required parking for employees, visitors and services on the same property. (See Section 27-117, Subsection B.4)
3. Home occupations (See Section 27-117, Subsection B.7).

**D. Bulk and Dimensional Requirements**

1. Minimum lot area: 8,000 square feet (Except as otherwise specified).
2. Minimum lot width, measured at building line: 75 feet

3. Minimum front yard, measured between lot line and building line: 25 feet
4. Minimum side yard (two required): 10 feet
5. Minimum rear yard: 30 feet
6. Maximum building height (measured between the average finished grade elevation and the highest point of the building):
  - i. Principal structures: 35 feet
  - ii. Accessory structures: 15 feet
7. Accessory uses and structures: All accessory uses and structures shall be located a minimum of ten feet (10') from the closest side or rear property line.

(*Ord. 260, 10/2/1979, §3-4; Ord. 372, 6/7/2005, §108*)

### **SECTION 27-109. R-2 Residential District**

Purpose: The purpose of the R-2 District is to provide for a mixture of housing types based on the proximity of community services and facilities.

#### **A. Permitted Principal Uses:**

1. Single family detached dwelling.
2. Two-family houses.
3. Triplex and quadruplex building.
4. Townhouse building.
5. Garden apartment buildings.
6. Conversion apartments.
7. Churches and other places of worship, including parish houses, educational buildings and required parking.
8. Schools, both public and private, with parking, provided such schools are accredited by the Commonwealth.
9. Municipal and public utility service buildings, structures, facilities and outdoor recreation areas serving the immediate area.
10. Forestry.

#### **B. Permitted Accessory Uses:**

1. Home based businesses (no impact).
2. Private garages and parking areas.
3. Signs (See Section 27-119).
4. Private garden and similar minor residentially related structures.

5. Private kennels or other appropriate housing for the domestic pets of the residents of the property only.

**C. Special Exceptions:**

1. Public utility service buildings, structures and facilities serving an area greater than the immediate vicinity of such use. (See Section 27-117, Subsection B.5)
2. Home occupations (See Section 27-117, Subsection B.7 )

**D. Bulk and Dimensional Requirements**

1. Minimum lot area
  - a. Single family detached dwelling: 6,000 square feet
  - b. Two-family duplex on own lot: 8,000 square feet
  - c. Townhouse: 1,400 square feet per dwelling unit
  - d. Garden apartment, apartment, triplex and quadruplex building: 10,000 square feet
  - e. All other permitted uses: 6,000 square feet
2. Minimum lot width, measured at building line
  - a. Single family detached dwelling: 60 feet
  - b. Two-family dwelling on own lot: 60 feet
  - c. Townhouse building: 80 feet
  - d. Garden apartment, apartment, triplex and quadruplex building: 75 feet
  - e. All other permitted uses: 60 feet
3. Minimum front yard, measured between lot line and building line
  - a. Single family detached dwelling: 25 feet
  - b. Two family dwelling on own lot: 25 feet
  - c. Townhouse building: 25 feet
  - d. Garden apartment, apartment, triplex and quadruplex building: 25 feet
  - e. All other permitted uses: 25 feet
4. Minimum side yard (two required)
  - a. Single family detached dwelling: 10 feet
  - b. One family townhouse on own lot (excluding interior units): 10 feet
  - c. Two family dwelling on own lot (excluding interior units): 10 feet
  - d. Townhouse building (excluding interior units): 10 feet
  - e. Garden apartment, apartment, triplex and quadruplex building: 10 feet
  - f. All other permitted uses: 10 feet



5. Minimum rear yard
  - a. Single family detached dwelling: 25 feet
  - b. Two family dwelling on own lot: 25 feet
  - c. Townhouse building: 25 feet
  - d. Garden apartment, apartment, triplex and quadruplex building: 30 feet
  - e. All other permitted uses: 25 feet
6. Maximum building height (measured between the average finished grade elevation and the highest point of the building)
  - a. Principal structures: 35'
  - b. Accessory structures: 15'
7. Accessory uses and structures: All accessory uses and structures shall be located a minimum of ten feet (10') from the closest side or rear property line.

(Ord. 260, 10/2/1979, §3-4; Ord. 372, 6/7/2005, §109)

#### **SECTION 27-110. C-1 Commercial**

Purpose: The purpose of the C-1 District is to provide for a wide variety of commercial and service uses in addition to a mixture of residential uses.

##### **A. Permitted Principal Uses:**

1. All uses permitted as principal or accessory uses in the R-2 zoning district.
2. Antique sales.
3. Automobile service station including auto washing, sale of tires, batteries, and/or accessories, and trailer rental but not including collision repair or auto painting (See Section 27-115, Subsection D).
4. Automobile sales.
5. Banks and financial service offices, without drive-through.
6. Barber or beautician shop.
7. Drug store.
8. Dry-cleaning and laundry pick-up station.
9. Food sales and markets.
10. Gardening supplies and equipment.
11. Medical and dental offices and clinics.
12. Membership clubs and lodges.
13. Offices for business, personal or professional services.

14. Parking lots.
  15. Essential services and related structures.
  16. Repair services, limited to items that can be hand carried in.
  17. General and specialty retail, to a maximum of ten thousand (10,000) square feet of gross floor area, conducted entirely within an enclosed building.
  18. Restaurant, without drive-through.
  19. Studios and art galleries.
  20. Forestry.
- B. Permitted Accessory Uses:**
1. Home based businesses (no impact)
  2. Parking and loading areas. (See Section 27-118)
  3. Signs. (See Section 27-119)
- C. Special Exceptions:**
1. Apartments in the same structure that houses a commercial activity. (See Section 117, Subsection B.6).
  2. Home occupations (See Section 27-117, Subsection B.7)
- D. Conditional Uses:**
1. Banks, drive-in. (See Section 27-116, Subsection D.1)
  2. Funeral homes. (See Section 27-116, Subsection D.2)
  3. Hotels and motels. (See Section 27-116, Subsection D.3)
  4. Restaurants, drive-in. (See Section 27-116, Subsection D.4)
  5. Theaters, not including outdoor drive-in theaters. (See Section 27-116, Subsection D.5)
- E. Bulk and Dimensional Requirements:**
1. Minimum lot area
    - a. Single family detached dwelling: 6,000 square feet
    - b. Two family dwelling on own lot: 8,000 square feet
    - c. Townhouse building: 8,000 square feet
    - d. Garden apartment and apartment building: 10,000 square feet
    - e. All other permitted uses: 6,000 square feet
  2. Minimum lot width, measured at building line
    - a. Single family detached dwelling: 60 feet
    - b. Two family dwelling on own lot: 60 feet
    - c. Townhouse building: 80 feet

- d. Garden apartment and apartment building: 75 feet
  - e. All other permitted uses: 60 feet
3. Minimum front yard, measured between lot line and building line
  - a. Commercial and service uses: 0 feet
  - b. Single family detached dwelling: 10 feet
  - c. Two family dwelling on own lot: 10 feet
  - d. Townhouse building: 10 feet
  - e. Garden apartment and apartment building: 10 feet
  - f. All other permitted uses: 10 feet
4. Minimum side yard (two required)
  - a. Single family detached dwelling: 10 feet
  - b. Two family dwelling on own lot (excluding interior units): 10 feet
  - c. Townhouse building (excluding interior units): 10 feet
  - d. Garden apartment and apartment building: 10 feet
  - e. All other permitted uses: 10 feet (See Section 27-115, Subsection A. 4 for additional requirements)
5. Minimum rear yard
  - a. Single family detached dwelling: 15 feet
  - b. Two family dwelling on own lot: 25 feet
  - c. Townhouse building: 25 feet
  - d. Garden apartment and apartment building: 30 feet
6. Maximum building height (measured between the average finished grade elevation and the highest point of the building)
  - a. Principal structures: 35 feet
  - b. Accessory structures: 15 feet
7. Accessory uses and structures: All accessory uses and structures shall be located a minimum of ten feet (10') from the closest side or rear property line.
8. Maximum Density (dwelling units per gross acre of property)
  - a. Townhouse building: 12
  - b. Apartment building: 24
9. Bufferyard requirements:
  - a. The property owner shall provide a buffer yard where the lot abuts a residentially zoned parcel, ten feet (10') in width, within the required setback along the abutting property lines, that contains a 50/50 mix of evergreen and deciduous trees, 1-½ inches to 2 inches in caliper at a point four (4) feet above the ground.

- b. The buffer yard shall be installed in accordance with the requirements of Section 27-115, Subsection L.

(*Ord. 338, 11/1/1994, §3; Ord. 372, 6/7/2005, §110*)

## **SECTION 27-111. C-2 Commercial**

Purpose: The purpose of the C-2 District is to maintain the neighborhood commercial environment of the land area around the Diamond. It is designed to serve the residents in the

Borough with a mixture of commercial and residential uses that are appropriate to the historic area located within this District.

### **A. Permitted Principal Uses:**

1. All uses permitted as principal or accessory uses in the R-2 Zoning District.
2. Bakery, with all goods prepared on the premises sold there;
3. Bank / financial institutions;
4. Barber / beautician shop;
5. Church or other place of worship, including parish house, educational building, recreational building and required parking provided that the parish house, educational building and recreational building must be located on or adjacent to the church or other place of worship;
6. Delicatessen;
7. Dry cleaning pick-up;
8. Funeral home;
9. Laundry, coin-operated;
10. Membership club;
11. Parking lot;
12. Essential services and related structures;
13. Restaurants, except drive-through;
14. Studios, including photo, and art galleries;
15. Tailor or dressmaker;
16. Offices for business, personal or professional services.
17. Single family detached dwelling.
18. Forestry.
19. Any other retail sales or service business conducted entirely indoors except for incidental displays, and occupying a maximum of ten thousand (10,000) square feet of street level floor space. (*6/5/2007*)

**B. Permitted Accessory Uses:**

1. Home based businesses (no impact)
2. Parking and loading areas (See Section 27-118).
3. Signs (See Section 27-119).

**C. Special Exceptions:**

1. Apartments in the same structure that houses a commercial activity (See Section 27-117, Subsection B.6).
2. Restaurant with drive through service, provided the drive-through window is at the rear of the building, at least five (5) spaces in line are available approaching the pick-up window, and table service is available in the building for walk-in patrons; (See Section 27-117, Subsection B.1)
3. Bank or financial institutions with drive-through service; provided the drive-through window is at the rear of the building and at least five (5) spaces in line are available approaching the drive-through window; (See Section 27-117, Subsection B.2)
4. Conversion apartments (See Section 27-117, Subsection B.3).
5. Home occupations (See Section 27-117, Subsection B.7)

**D. Bulk and Dimensional Requirements**

1. Minimum lot area
  - a. Single family detached dwelling: 6,000 square feet
  - b. Two family dwelling on own lot: 8,000 square feet
  - c. Townhouse building: 8,000 square feet per dwelling unit
  - d. Garden apartment and apartment building: 10,000 feet
  - e. All other permitted uses: 6,000 square feet
2. Minimum lot width, measured at building line
  - a. Single family detached dwelling: 60 feet
  - b. Two family dwelling on own lot: 60 feet
  - c. Townhouse building: 80 feet
  - d. Garden apartment and apartment building: 75 feet
  - e. All other permitted uses: 60 feet
3. Minimum front yard, measured between lot line and building line
  - a. Single family detached dwelling: 25 feet
  - b. Two family dwelling on own lot: 25 feet
  - c. Townhouse building: 25 feet
  - d. Garden apartment and apartment building: 75 feet
  - e. All other permitted uses: 25 feet

4. Minimum rear yard
  - a. Single family detached dwelling: 15 feet
  - b. Two family dwelling on own lot: 25 feet
  - c. Townhouse building: 25 feet
  - d. Garden apartment and apartment building: 30 feet
  - e. All other permitted uses: 15 feet (See Section 27-115, Subsection A for additional requirements)
5. Maximum building height (measured between the average finished grade elevation and the highest point of the building)
  - a. Principal structures: 35 feet
  - b. Accessory structures: 15 feet
6. Accessory uses and structures: All accessory uses and structures shall be located a minimum of ten feet from the closest side or rear property line.
7. Maximum Density (dwelling units per acre of property)
  - a. Townhouse building: 12
  - b. Apartment building: 24
8. Bufferyard requirements:
  - a. The property owner shall provide a buffer yard where the lot abuts a residentially zoned parcel, ten (10) feet in width, within the required setback along the abutting property lines, that contains a 50/50 mix of evergreen and deciduous trees, 1-½ inches to 2 inches in caliper at a point four (4) feet above the ground.
  - b. The buffer yard shall be installed in accordance with the requirements of Section 27-115, Subsection L.

(*Ord. 316, 4/2/1991, §2; Ord. 318, 6/18/1991, §2; Ord. 372, 6/7/2005, §111*)

#### **SECTION 27-112. I Industrial**

Purpose: The purpose of the I Industrial District is to provide for industrial or manufacturing uses that are compatible with existing uses and will create a minimum impact on adjacent properties.

##### **A. Permitted Principal Uses** (See also Special Controls, Section 115, Subsection I):

1. All nonresidential uses permitted in the C-1 and C-2 zoning districts.
2. Single family detached dwelling.
3. Automobile service including collision repair and auto painting, if conducted in an enclosed building. (See Section 27-115, Subsection D)
4. Bakery.
5. Beverage distributorship.

6. Cold storage or locker storage.
7. Contractors' offices and equipment and material storage.
8. Dry cleaning and commercial laundries.
9. Light manufacturing, as defined.
10. Printing and publishing plants.
11. Research laboratories.
12. Retail sales of displayed products as an incidental part of the basic manufacturing operation.
13. Supply yards for building materials, construction equipment, etc., but not including scrap materials except those actually to be used in a manufacturing process on the same property.
14. Trailer, mobile home, recreation vehicle, farm equipment and motorcycle sales and service.
15. Warehousing, storage and packaging.
16. Distribution warehousing.
17. Essential services and related structures.
18. Forestry.
19. Storage Area / Lot. (6/5/2007)

**B. Permitted Accessory Uses:**

1. Home based businesses (no impact).
2. Offices in connection with basic industrial uses.
3. Parking and loading areas (See Section 27-118).
4. Signs (See Section 27-119).

**C. Special Exceptions:**

1. Home occupations (See Section 27-117, Subsection B.7).

**D. Conditional Uses:**

1. Manufacture of finished products not listed above from previously prepared materials made of wood, glass, textiles, cork, leather, bone, horn, shell, fur, feathers, hair, rubber, paper, plastics or metal. (See Section 27-116, Subsection D.6)

**E. Bulk and Dimensional Requirements**

1. Minimum lot area: 10,000 square feet for all principal uses.
2. Minimum lot width, measured at building line: 75 feet
3. Minimum front yard, measured between lot line and building line: 10 feet

4. Minimum side yard (two required): 10 feet (see Section 115, Subsection A.4 for additional requirements)
5. Minimum rear yard: 20 feet (See Section 27-115, Subsection A.4 for additional requirements)
6. Maximum building height (measured between the average finished grade elevation and the highest point of the building)
  - a. Principal structures: 40 feet
  - b. Accessory structures: 15 feet
7. Accessory uses and structures: All accessory uses and structures shall be located a minimum of ten feet (10') from the closest side or rear property line.
8. Bufferyard requirements:
  - a. The property owner shall provide a buffer yard where the lot abuts a residentially zoned property, ten (10) feet in width, within the required setback along the abutting property lines that contains a 50/50 mix of evergreen and deciduous tree, 1-½ inches to 2 inches in caliper at a point four (4) feet above the ground.
  - b. The buffer yard shall be installed in accordance with the requirements of Section 27-115, Subsection L.

(Ord. 372, 6/7/2005, §112)

### **SECTION 27-113. I-2 Industrial**

**Purpose:** The purpose of the I-2 Industrial District is to provide for planned industrial or manufacturing uses on multiple use sites designed to minimize impacts on adjacent developed properties.

- A. Permitted Principal Uses (See also Special Controls, Section 27-115, Subsection I):
  1. All nonresidential uses permitted in the C-1 and C-2 zoning districts.
  2. Single family detached dwelling.
  3. Automobile service including collision repair and auto painting, if conducted in an enclosed building. (See Section 27-115, Subsection D)
  4. Light industrial facilities (as defined).
  5. Beverage distributorship.
  6. Cold storage or locker storage.
  7. Contractors' offices and equipment and material storage.
  8. Light manufacturing, as defined.



9. Printing and publishing plants.
  10. Research laboratories.
  11. Retail sales as an incidental part of the basic manufacturing, assembling, or processing operation.
  12. Home improvement, retail supply yards for building materials.
  13. Distribution and warehousing
  14. Wholesale business.
  15. Utility service buildings, structures and facilities.
  16. Forestry.
  17. Storage Area / Lot (6/5/2007)
- B. Permitted Accessory Uses:
1. Home based businesses (no impact).
  2. Offices in connection with basic industrial uses.
  3. Parking and loading areas (See Section 27-118).
  4. Signs (See Section 27-119).
- C. Special Exception:
1. Home occupations (See Section 27-117, *Subsection B.7*).
- D. Conditional Uses:
1. Manufacture of finished products from previously prepared materials made of wood, glass, textiles, cork, leather, bone, horn, shell, fur, feathers, hair, rubber, paper, plastics or metal. (See Section 27-116, Subsection D.6)
  2. Adult Entertainment Establishments (See Section 27-116, Subsection D.8)
  3. Communication facilities (See Section 27-116, Subsection D.7)
- E. Bulk and Dimensional Requirements
1. Minimum lot area: 10,000 square feet (all uses)
  2. Minimum lot width, measured at building line: 75 feet
  3. Minimum front yard, measured between lot line and building line: 10 feet
  4. Minimum side yard (two required): 10 feet (see Section 115, Subsection A.4 for additional requirements)
  5. Minimum rear yard: 20 feet (See Section 27-115, Subsection A.4 for additional requirements)

6. Maximum building height (measured between the average finished grade elevation and the highest point of the building)
  - a. Principal structures: 40 feet
  - b. Accessory structures: 15 feet
7. Accessory uses and structures: All accessory uses and structures shall be located a minimum of ten feet (10') from the closest side or rear property line.
8. Bufferyard requirements:
  - a. The property owner shall provide a bufferyard where the lot abuts a residentially zoned property, ten (10) feet in width, within the required setback along the abutting property lines that contains a 50/50 mix of evergreen and deciduous tree, 1-½ inches to 2 inches in caliper at a point four (4) feet above the ground.
  - b. The buffer yard shall be installed in accordance with the requirements of Section 27-114, Subsection L.

(Ord. 372, 6/7/2005, §113)

#### **SECTION 27-114. Historic Overlay District**

**Purpose:** The purpose of the Historic Overlay District is to protect the historic areas and structures within the Borough that have a distinctive appearance that recalls the rich architectural and historic heritage of the Borough. The Historic Overlay District shall be administered in conjunction with the underlying zoning districts, thereby permitting the same uses as the underlying zoning districts.

- A. General Requirement: Any construction, alterations, additions or demolition of any structure within the Historic Overlay District shall be subject to the procedures and requirements found in Borough Ordinance No. 341, as amended.
  1. Location: The location of the Historic Overlay District shall be referenced and found in Borough Ordinance No. 341, as amended.
  2. Permitted Principal Uses: Permitted principal uses shall be those uses listed as permitted principal uses in the underlying zoning districts.
  3. Permitted Accessory Uses: Permitted accessory uses shall be those uses listed as accessory uses in the underlying zoning districts.
  4. Conditional Uses:
    - a. Conditional Uses shall be those uses listed as conditional in the underlying zoning districts.
    - b. Bed and Breakfast:
      - (i) A maximum of eight (8) rooms for overnight guests shall be permitted;

- (ii) One (1) parking space for each guest room, plus two (2) spaces for the resident owner shall be provided on site.
  - (iii) On-site signage shall be limited to one (1) free-standing sign, a maximum of eight (8) square feet in area;
  - (iv) Exterior lighting, when utilized, shall be of the sharp cut-off luminaire type, with a maximum of two (2) footcandles of illumination at the property boundaries.
5. Special Exceptions: Special Exceptions shall be those uses listed as uses by special exception in the underlying zoning districts.
6. Bulk and Dimensional Requirements: The bulk and dimensional requirements shall be as specified for the underlying zoning districts.

(Ord. 372, 6/7/2005, §114)

### **SECTION 27-115. Supplemental Regulations**

#### **A. Additional Requirements and Exceptions:**

1. The maximum number of dwelling units on any lot in the R-2, C-1 and C-2 zoning districts, except where there are garden or conversion apartments or town houses, shall be two (2).
2. Where two dwelling buildings occur on the same lot both shall comply to the required front, side and rear yard distances and they shall not be closer one to the other than twenty (20) feet at the closest point.
3. All properties to be developed in the Borough shall have access to and be acceptable by the public sewer and water services. No well water supplies or on-lot sewage disposal systems shall be permitted on any properties to be developed unless such properties are at least one acre (43,560 square feet) in area and access to public utilities is not feasible in the Borough Engineer's opinion.
4. Where a property abuts more than one street upon which other properties have their principal access, the minimum yard dimension of the property facing each street shall be the minimum dimension for a front yard.
5. Where a property abuts a street along its side property line and that street functions as an alley, upon which no other properties have their principal access, the requirements for minimum side yard dimensions shall apply.
6. Where a property abuts two recorded streets and one street is an alley or secondary street upon which no properties have their only access, one (1) garage or service building may be erected on such a property if the wall of such garage parallel with and facing the secondary street is no closer than ten (10) feet to the edge of the street cart way closest to the garage.
7. Where fifty percent (50%) of the recorded lots on a street frontage between two cross streets are developed prior to the effective date of this

Ordinance, future development of the street frontage shall maintain the average front yard dimension of the adjacent lots as the required minimum front yard dimension.

8. Open porches or patios or low retaining or decorative walls no more than three feet (3') above finish grade at any point around their periphery may extend to within five (5) feet of any side or rear yard property line or within ten feet (10') of any front yard property line or street right-of-way line, except as otherwise provided.
9. Balconies on second or third floor levels or outdoor access steps to basement areas may project no more than three (3) feet into a required yard area. Access areas to basements shall be surrounded on three (3) sides by a railing at least two feet six inches (2'-6") above grade at any point.
10. Churches and other public or semi-public permitted uses may be built to a height of not more than forty-five feet (45'), measured in feet between the average finished grade elevation and the highest point on the building, except that steeples may be built not higher than ninety feet (90').
11. Curb cutting must be done according to the Borough's specifications. See Harmony Borough Drawing File #2415.
12. Utility garden sheds occupying not more than sixty-four (64) square feet on the ground and not over eight (8) feet in height may be located in a side or rear yard not less than two (2) feet from a side or rear property line but not less than ten (10) feet from an alley or street.

**B. Performance Standards:** The performance standards applicable to nonresidential uses shall include all adopted air, water and soil pollution, noise, health and other relevant federal, state and county laws and regulations. In addition, Borough Council may set other conditions upon nonresidential development not included in this Section, so as to protect the public's health, safety and general welfare. No use shall be permitted which shall cause a violation of federal, state and/or county laws, or the standards of this Section and conditions affixed by the Borough pursuant to the protection of the citizen's health, safety and general welfare.

1. **Environmental Performance Standards:** The developer shall determine the presence of environmental or natural features on any site proposed for land development and shall meet the following standards for environmental protection. Site alterations, regrading, or filling prior to approval of the plans for development shall be a violation of this Chapter.
  - a. **Floodplain Delineation:** One hundred (100) year floodplains shall be delineated by accepted analytical procedures approved by the Borough Engineer.
  - b. **Floodplains Development:** Development activities shall be regulated as per the provisions of current floodplain regulations, as amended from time to time, and applicable Commonwealth regulations, specifically Chapter 105, Title 25 of the Pennsylvania Code.

- c. Steep Slopes: In areas of steep slopes, i.e., those above fifteen percent (15%), the following standards shall apply:
    - 16-25%: No more than sixty percent (60%) of such areas shall be developed and/or regraded or stripped of vegetation.
    - 26% or more: Earth disturbance activities are generally restricted except as authorized by the Borough Engineer.
  - d. Forest: No more than fifty percent (50%) of any forest as defined may be cleared or developed.
  - e. Ponds, Watercourses or Wetlands: No development, filling, piping or diverting shall be permitted except for required roads and utility line extensions, unless permitted by the appropriate state, county or regulatory agency.
  - f. Stormwater Drainage and Management: All plans shall comply with the provisions of state and local regulations in effect at the time of final approval.
  - g. Soil Erosion and Sedimentation: With any earth disturbance there shall be control of erosion and the protection of streams and ponds from sedimentation in accordance with the "Clean Streams Law P.L. 1987", Chapter 102 of Title 25 of the Pennsylvania Code, and the "Soil Erosion and Sedimentation Control Manual" of the Pennsylvania Department of Environmental Protection. In addition, a Soil Erosion and Sediment Control Plan (ES & SC Plan) shall be required as part of the application for any Borough permit where earth disturbance or excavation will occur. As a minimum where sediment can be transported away from the disturbed area, a silt fence or straw bale barrier shall be erected and maintained in working order until vegetation is fully established or erosion resistant ground cover has been installed. Additional sediment pollution control measures may be required where land development is more extensive than single-family construction.
2. Storage and Waste Disposal:
    - a. No highly flammable, explosive or toxic liquids, solids or gases shall be stored in bulk (over five hundred [500] gallons), above ground except tanks or drums of fuel connected directly with energy devices or heating appliances located and operated on the same lot as the tanks or drums of fuel.
    - b. All permanent bulk outdoor storage facilities for fuel over five hundred (500) gallons, raw materials and products and all fuel, raw materials and products stored outdoors, shall be enclosed by an approved safety fence.
    - c. No materials or wastes shall be deposited upon a lot in such form or manner that they may be transported off the lot by natural causes or forces; nor shall any substance which can contaminate wells, watercourses, or potable water supplies otherwise render such wells,

watercourses, or potable water supplies undesirable as sources of water supply or recreation; nor shall any substance which will destroy aquatic life be allowed to enter any wells, watercourses, or potable water supplies. A Pennsylvania Department of Environmental Protection approved plan for spill containment shall be submitted to the Borough for review by the Borough Engineer prior to the issuance of any required permit.

- d. Any materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible or otherwise attractive to rodents or insects shall be stored outdoors only if enclosed in containers adequate to eliminate such hazards.
  - e. Discharge: No discharge at any point into any private sewage disposal system or stream or into the ground, of any materials in such a way or in such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or objectionable elements or the accumulation of solid wastes conducive to the breeding of rodents or insects is permitted.
  - f. Maintenance of Property: The owner or lessee of the property, except land being actively farmed, whether occupied or vacant located within or adjacent to any developed area, shall maintain such premises so that all portions of the property shall be kept free of junk, debris, disabled motor vehicles, and dangerous, objectionable or noxious matter.
  - g. Vehicle and Equipment Maintenance:
    - (i) In the I-Industrial, I-2 Industrial, C-1 and C-2 Commercial zoning districts, all movable equipment repair done on the property shall be performed within an enclosed building, except that minor maintenance activities may be completed on the exterior of a lot where space has been provided for the temporary parking or storage of vehicles and movable equipment.
    - (ii) In residentially zoned areas, minor vehicle maintenance activities may be conducted in driveways, but in no case shall repairs be made on vehicles and movable equipment, which would result in the permanent storage of said vehicles, or movable equipment on the exterior of the lot.
3. Fire Protection: Fire prevention and fire fighting equipment acceptable to the Board of Fire Underwriters shall be readily available when any activity involving the handling or storage of flammable or explosive materials is carried on. An Emergency Response Plan should be submitted to the Borough annually for approval by the Emergency Management Coordinator or other designated agency.
  4. Electrical Disturbance or Interference- No use in any zoning district shall:

- a. Create any electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance; or
  - b. Otherwise causes, creates, or contributes to the interference with electronic signals (including television and radio broadcasting transmissions) to the extent that the operation of any equipment not owned by the creator of such disturbance, is adversely affected.
5. Noise - Sound levels which are determined to be objectionable because of volume, frequency or beat shall be regulated as follows:
- a. Sound levels shall be measured with a sound level meter or sound level meter with associated octave band analyzer that conforms to standards or specifications published by the American Standards Association. Impulsive type noise shall be subject to the performance standards hereinafter prescribed, provided that such noise shall be capable of being accurately measured with such equipment. Noise capable of being so measured, for the purpose of this ordinance, shall be those noises which cause rapid fluctuations of the needle of the sound level meter with a variation of not more than plus or minus (+ or -) two (2) decibels. Noise incapable of being so measured, such as those of an irregular intermittent nature, shall be controlled so as not to become a nuisance to adjacent uses. (American Standard Sound Levels for Measurement of Noise and Other Sounds, 223, 3-1944, American Standards Association, Inc., New York, New York, shall be used.)
  - b. No activity may transmit noise across any residential, commercial or industrial use property boundary line in excess of levels established below:

Within Following Zoning District	Maximum Permitted Sound Level in Decibels (RE .0002 microbar)	
	7 a.m. to 7 p.m.	7 p.m. to 7 a.m.
R-1, R-2, HO	55	50
C-1, C-2	65	60
I, <u>I-2</u>	70	65

OR

Octave Band Cycles/Second (preferred center frequency)	7 a.m. to 7 p.m.	7 p.m. to 7 a.m.
31.5	79	73
63.0	74	68
125.0	68	62
250.0	60	54

500.0	55	49
1000.0	50	44
2000.0	46	40
4000.0	41	35
8000.0	38	32

- c. Impulsive type noises generated by sources that do not operate more than one (1) minute in any one hour period are permissible up to a



- level of ten (10) dB(A) in excess of the figures listed in Subpart B, except that this higher level of permissible noise shall not apply from 7:00 p.m. to 7:00 a.m., when the adjacent lot is zoned residential. The noise shall be measured using the fast response of the sound level meter
- d. Noise resulting from alarm, sirens, emergency work, normal lawn and landscaping care, traffic and agricultural use shall be exempt from the requirements of this Section. Noise resulting from temporary construction activity that occurs between 7:00 a.m. and 7:00 p.m. shall be exempt from the requirement of this Section, except that no such activity shall occur on Sunday.
  - e. No noise from recordings, loudspeakers, or public address systems shall be allowed which interferes with the reasonable enjoyment of adjacent residential properties.
6. Odors - No malodorous gas or matter shall be permitted and shall be regulated as follows:
- a. For purposes of this Section, the "odor threshold" is defined as the minimum concentration in air of a gas, vapor, or particulate matter that can be detected by the olfactory systems of a panel of three (3) healthy observers appointed by the Borough Council.
  - b. No use may generate any odor that reaches the odor threshold, measured at:
    - (i) The outside boundary of the immediate space occupied by the enterprise generating the odor.
    - (ii) The lot line, if the enterprise generating the odor is the only enterprise located on a lot.
  - c. The release of odorous matter from any district across residential or commercial district boundary lines shall be so controlled that, at ground level or at habitable elevation, the concentration shall not exceed the odor threshold. Further, the release of malodorous matter across lot lines shall not become a nuisance or source of discomfort to neighboring uses. As a guide in determining qualities of offensive odors, standards established by the PA Department of Environmental Protection (PA DEP).
7. Air Pollution - No pollution of air by ash, dust, smoke, vapors or other substance shall be permitted which is harmful to human health, animals, vegetation or other property. In addition:
- a. Any use that emits any air contaminant, as defined in State air pollution law(s), shall comply with applicable State standards concerning air pollution.
  - b. No zoning permit, building permit or conditional use approval may be issued with respect to any use covered by subsection A herein,

until verification from the appropriate State agency that the appropriate State permits have been received by the developer/owner, or that the developer will be eligible to receive such permits and that the development is otherwise In compliance with applicable air pollution laws.

8. Glare - Lighting devices or reflective surfaces which may produce objectionable glare onto neighboring properties and/or roadways shall be regulated as follows:
  - a. In any district, any operation or activity producing intense glare shall be so conducted that direct and/or indirect illumination from the source of light shall not cause illumination in excess of one half (1/2) of one (1) foot-candle above background when measured at any residential district boundary line. Flickering or intense sources of light shall be controlled so as not to cause a nuisance across any lot lines or roadways.
  - b. All outside lighting, including lighting for signs, shall be directed in such a way as to not create a nuisance to any adjacent property and/or roadway. All illumination devices and fixtures shall be equipped with a glare-shielding device approved by the Borough Engineer.
9. Water Pollution:
  - a. No use in any zone may discharge any waste material contrary to the provisions established by the Pennsylvania Department of Environmental Protection governing discharges of radiological, chemical or biological wastes into surface or subsurface waters.
  - b. No use in any zone may discharge into the Borough's sanitary sewer treatment facilities any waste that cannot be adequately treated by biological means.
10. Storage of Solid Waste, Trash and Garbage:
  - a. The storage of waste, trash and garbage shall be hidden from public view by a fence or similar structure, constructed in compliance with this Ordinance, as amended, unless the unique features of the property make it impossible to do so, and such impossibility is not created by the owner's, tenant's or occupant's action. In such case, all waste, trash, or garbage shall be completely enclosed in covered containers or receptacles with rigid sides, designed for such purpose, which covers shall, at all times, close flush with the top of the container or receptacle. Plastic bags, paper bags, cardboard boxes or similar items are not acceptable containers or receptacles for the purposes of this Section.
  - b. The owner, tenant, or occupant shall not permit waste, trash and/or garbage to be stored outside such containers or receptacles.

- c. Outdoor trash, rubbish, and recycling collection areas shall be located with an emphasis upon shielding the site from public view and to shield with landscaping the area near the site to minimize any detrimental effects upon neighboring properties. The following shall apply to all such uses:
    - (i) No collection site for trash, rubbish or recyclable materials shall be located within any front yard area or along any street frontage.
    - (ii) The collection site shall be a minimum of ten feet (10') from any rear property line.
    - (iii) Each site shall be screened with a six-foot (6') opaque fence or basket weave fence. Landscaping with shrubbery and trees as per Section 115 L is also required.
    - (iv) The maximum area of each site shall not exceed two hundred (200) square feet.
    - (v) Daily inspections by the property owners or tenants shall be conducted to collect any loose debris near the container and insure animals, rodents, and vermin do not inhabit the area.
  - d. No outdoor stockpiling of any material or outdoor storage of trash is permitted in the front yard. In any residential district, the outdoor stockpiling of materials (except firewood) for more than thirty (30) days is prohibited.
  - e. The placement of framed enclosure composts as an accessory residential use is permitted, subject to all accessory use setbacks. Only yard/garden waste materials from the residential site shall be deposited within the compost, and in no case shall meat or meat by-products be composted. All composts shall be properly maintained so as not to become a nuisance to nearby properties.
- C. **Garage Apartments:** Permitted as an accessory use in the R-2, C-1 and C-2 zoning districts, provided:
- 1. Only one (1) apartment is constructed in any garage apartment building and it occupies the second floor of the structure.
  - 2. The garage is for residential storage of automobiles only.
  - 3. As a condition of constructing the garage apartment building, the owner agrees to include on the deed to the property that he or a successor will not later subdivide to place the garage apartment on a separate parcel unless such subdivision will create lots conforming in area to these regulations.
- D. **Automobile Service Stations:** Permitted in the C-1 & I zoning districts, provided:

1. All storage of gasoline and other flammable liquids occurs in well-vented tanks below grade except for minor supplies in cans not larger than five (5) gallon capacity;
2. All pumps and other above grade permanent service facilities are located within the required set-back lines;
3. The station building is of brick or block wall construction and no windows or doors occur in any wall closer than seventy-five (75) feet to a side or rear property line except as access to rest rooms.

**E. Fences, Hedges and Walls:** Permitted in all zoning districts, provided:

1. Hedges, fences or walls on a property at the intersection of two public streets shall not occur if, in the opinion of the Zoning Officer, they obstruct reasonable sight lines for motorists approaching on any leg of the intersection.
2. No fence, hedge or wall shall exceed six (6) feet in height above the ground line if it is erected or planted along a side or rear property line and to the rear of the front building line, on a commercial or residentially zoned lot, or eight (8) feet on a lot zoned for industrial uses.
3. No hedge shall exceed three (3) feet in height above the ground line if the hedge is erected along the front property line or along the side property lines forward of the front building line.
4. Non-opaque decorative fencing shall be permitted to a maximum height of four feet, six inches (4'6") in required front yard where it does not obstruct the view of objects within the clear sight triangle, as defined.

**F. Swimming Pools:**

1. If the pool is less than one and a half (1 ½) feet in depth or is built out of the ground so that the pool deck or top of the supporting wall is at least four (4) feet above grade, no fencing will be required.
2. In all other cases a fence not less than four (4) feet in height with access through it limited to a self-latching gate or a gate capable of being locked from within or directly from the residence on the property, shall be required.

**G. Individual Mobile Homes on Their Own Lots:**

1. A mobile home for the purposes of this Ordinance shall be considered a transportable single family dwelling intended for permanent occupancy contained in one (1) unit, or in two (2) units designed to be joined into one (1) integral unit capable of being separated later for movement to another site, such dwelling being ready for occupancy upon arrival on its lot except for placement on its foundation and minor or incidental unpacking and assembly operations.
2. Mobile homes shall meet all requirements of this Ordinance relative to single-family dwellings in the same zoning districts.

3. Mobile homes shall be supported directly upon masonry or concrete piers on a reinforced concrete footer carried to a depth of at least three (3) feet below finished grade. Skirting appropriate for mobile homes, properly vented, shall enclose the space between the floor of the mobile home and the ground below.
4. Mobile homes shall be securely held to the foundation by tie-downs which may be cast-in-place concrete “dead men”, eyelets imbedded in concrete screw augers or arrow-head anchors placed at least at each corner of the mobile home, each device being rated to sustain a minimum load of 4,800 pounds.
5. Mobile homes shall be placed on required foundations within thirty (30) days of arrival on the lot.
6. No mobile home shall be occupied until it has received an occupancy permit from the Zoning Officer after connection to sewage disposal and water supply systems.
7. No mobile home lacking either toilet and bathing facilities or cooking and food storage facilities shall be permitted, nor shall any self-propelled vehicles used as living accommodations or travel trailers designed for temporary occupancy be permitted for residential purposes for a period exceeding fourteen (14) days.

**H. Special Controls in the Industrial I and I2 zoning districts:**

1. Performance standards applying to any use in either District:
  - a. Outside storage:
    - (i) Solid materials shall be screened from view from areas outside either Industrial District.
    - (ii) Flammable liquid materials shall be stored in vented below grade tanks or in a block building.
  - b. Waste disposal:
    - (i) All developed properties shall be connected to the public sewer system of Harmony Borough;
    - (ii) Liquid wastes not permitted to enter the public sewer system shall be removed from the property where originating and disposed of outside of Harmony Borough.

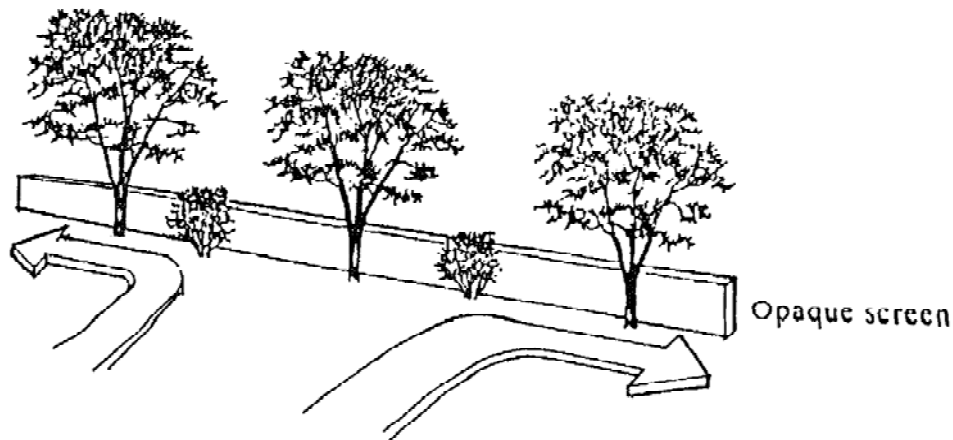
- I. **Use of Floodprone Land:** The use of land subject to flooding shall be governed by Chapter 8 of the Codification of Ordinances (Ordinance No. 303, adopted March 7, 1989), and later amendments thereto. Before a building permit may be issued, the Zoning Officer shall be assured that either the proposed construction is not subject to that Ordinance or that the proposed construction complies with that Ordinance’s requirements.

**J. Grading and Drainage:**

1. Applicable in all Zoning Districts:
  - a. Any change of grade made in development of a property shall result in conditions that will not cause any water or other material to drain or fall on any street or adjacent property.
  - b. Storm water shall not be permitted to collect upon any property nor to flow from one property to another without benefit of an easement for such purpose nor from any property over a public street.
  - c. In designing a storm water drainage system the flow accumulating from a continuous three (3) inch per hour rainfall shall be considered the maximum condition.
  - d. Any proposal for the development of a property shall indicate the means of collection and disposal of storm water and the Zoning Officer shall not approve any proposal until he is satisfied adequate drainage is provided, including easements if needed.
  - e. No storm water drains, including roof downspouts, shall be directed to the sanitary sewer lines. The Zoning Officer shall assure himself that this is the case before issuing an occupancy permit on any property.
- K. Nonresidential Site Plan Review: All nonresidential developments, including multi-family projects, shall comply with Article III, Section 306 of the Borough's Subdivision and Land Development Ordinance.
- L. Landscaping and Screening Requirements: All commercial, industrial or multi-family projects involving new construction or additions to existing structures, including expansion of any parking areas shall comply with the following:
  1. A planted visual barrier or landscape screen shall be provided and maintained on any lot proposed for development which abuts a previously developed lot except where natural, physical or man-made barriers exist which are deemed adequate by the Planning Commission and Borough Council and except where such contiguity has resulted from an amendment to the zoning district boundaries after the passage of this provision.
  2. There are hereby-established three (3) types of screening applicable throughout the Borough. The "screening requirements" chart included in this Section shall be used to determine which type of screen the developing use must provide along the perimeter boundary abutting a developed lot:
    - A. Opaque Screen, Type A - A screen that is opaque from the ground to a height of at least six feet (6'), with intermittent visual obstructions from the opaque portion to a height of at least twenty feet (20'). An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of spatial

separation. The opaque screen may include a wall or fence, but a minimum of seventy percent (70%) of the screen shall consist of densely planted vegetation. Compliance of planted vegetative screens will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. The opaque portion of the screen must be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstruction should not contain any completely unobstructed openings more than ten feet (10') wide. Suggested planting patterns follow:

**Opaque Screen - Type A**



**TYPE A  
TYPICAL OPAQUE SCREENS**



**SMALL TREES PLANTED  
30' ON CENTER.  
6' HIGH EVERGREEN  
SCREENING SHRUBS  
PLANTED 4' O.C.**



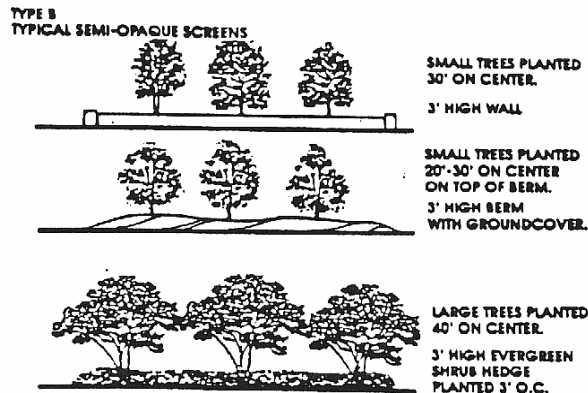
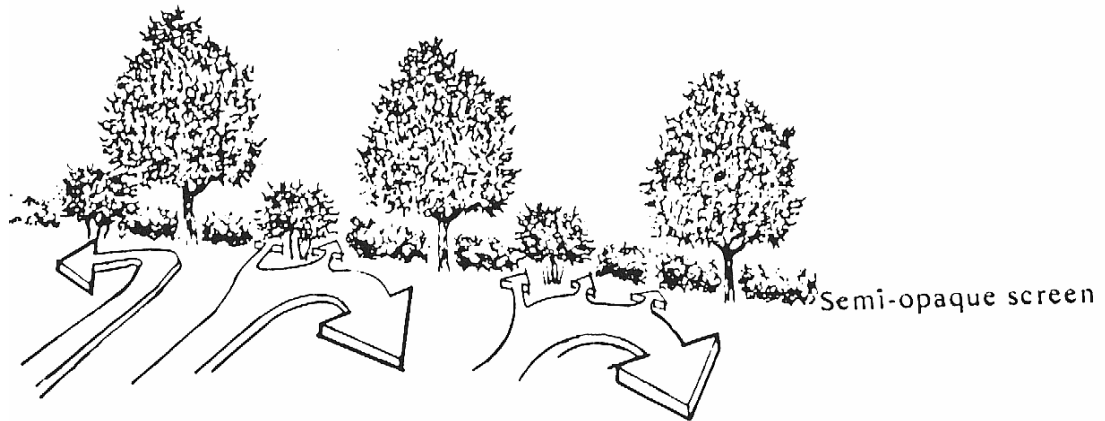
**LARGE TREES PLANTED  
40' ON CENTER.  
6' HIGH  
MASONRY WALL**



**TALL EVERGREEN TREES  
STAGGER PLANTED,  
WITH BRANCHES  
TOUCHING GROUND.**

b. Semi-Opaque Screen, Type B - A screen that is opaque from the ground to a height of three feet (3'), with intermittent visual obstruction from above the opaque portion to a height of at least twenty feet (20'). The semi-opaque screen may include a wall, fence or landscaped earth berm, but a minimum of seventy percent (70%) of the screen shall consist of densely planted vegetation. Compliance of planted vegetative screens will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than fifteen feet (15') wide. Suggested planting patterns follow:

**Semi-Opaque Screen - Type B**

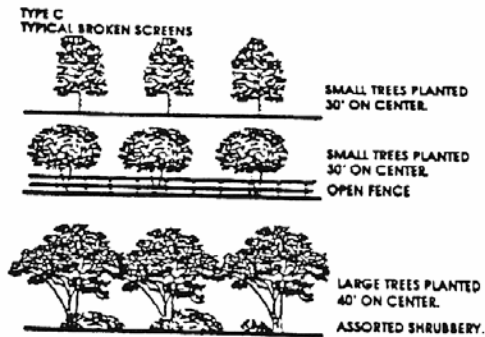
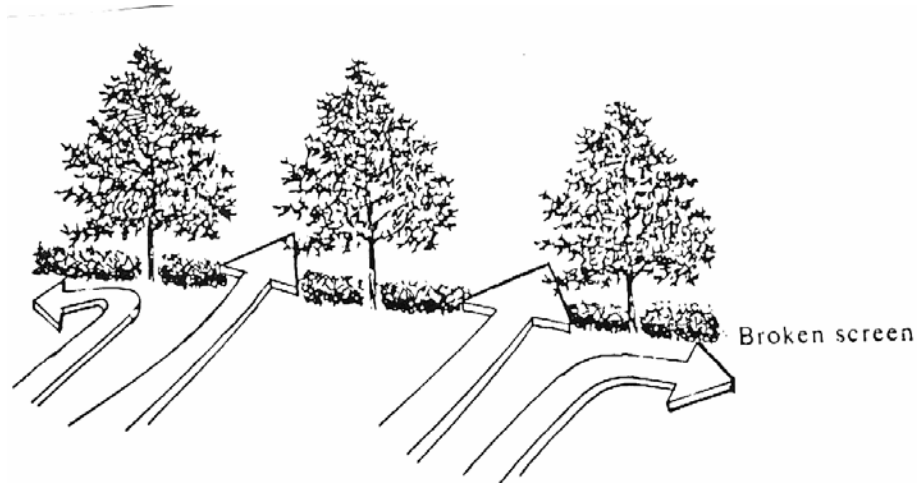


c. Broken Screen, Type C - A screen composed of intermittent visual obstructions from the ground to a height of at least twenty feet (20'). The broken screen is intended to create the impression of a separation of spaces



without necessarily eliminating visual contact between the spaces. The broken screen may include of a wall, fence or landscaped earth berm, but a minimum of seventy percent (70%) of the screen shall consist of densely planted vegetation or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. The screen may contain deciduous plants. Suggested planting patterns follow:

**Broken Screen - Type C**



3. The following tabular chart shall dictate the land use and appropriate screen type:

- M. **Forestry:** Forestry includes commercial logging operations, clearing, or destruction of forested or woodland areas as defined herein, selective cutting or clearing for commercial or clearing purposes, or clearing of vegetation in reserved open space or resource protection areas. This does not include authorized clearing in accordance with plans approved pursuant to this Ordinance, nor removal of sick or dead trees, or removal of trees in non-deed restricted areas on occupied lots of one (1) acre or less. This use is a permitted use in all districts subject to the following criteria.

1. Clear cutting of all vegetation shall not exceed areas of more than five (5) acres per every 100 acres, or more than 20% of the forest, whichever is less, except where pursuant to a state forestry cutting program or where class I, II or III agricultural soils are to be converted to agricultural uses.
  2. A reforestation program shall be submitted which shall show a program for reestablishment of the forest on a sustained yield basis, except where clearing is for agricultural use as provided above.
  3. For commercial uses, a long-range cutting program to insure that the forest is retained as an entity during the entire program. Such a program shall indicate the condition of the forest on a map showing:
    - a. Adjoining in reforestation.
    - b. For clearing purposes, the proposed future land use must be stated.
    - c. All plans shall show how the general habitat and visual block of the forest is to be maintained so that the forest retains its visual and habitat qualities at all stages of the long-range cutting plan.
  3. Post a bond to insure reforestation in the event of clear cutting.
- N. Traffic Impact Study: All applications for subdivision or land development approval that will generate thirty (30) or more p.m. peak hour trips, shall include a Traffic Impact Study. The Traffic Impact Study shall be prepared by a Registered Professional Engineer in traffic engineering and shall show with specificity the number of new p.m. peak hour trips which will be generated by the proposed development and the feasibility of accommodating such traffic on adjacent streets. The study shall:
1. Detail the short term and long term impact of the proposed land use on the street system of the Borough.
  2. Include data on existing street conditions in the impact area, including roadway width, condition, traffic volume and flow, projected levels of service, operating speeds, land use conflicts and safety.
  3. Provide five (5) year and twenty (20) year forecasts of the average daily vehicle trips which will be generated by the proposed use and distribute and assign these trips to the most probable travel paths over the adjacent street system.
  4. Identify measures needed to safely accommodate the future traffic and the means for implementation of such measures, including measures for providing safe and adequate railroad crossings.
  5. Include all data, computations and information pertinent to the Traffic Impact Statement and such supplementary information and projections as the Borough Council or the Borough Engineer may require clarifying or justifying the findings of the Traffic Impact Statement.

(Ord. 260, 10/2/1979, §5-7; Ord. 372, 6/6/2006, §115)

## **SECTION 27-116. Conditional Uses**

Where Borough Council, in this Ordinance, has stated conditional uses to be granted or denied by the Borough Council pursuant to express standards and criteria, and pursuant to recommendation by the Planning Commission, the Borough Council shall hold hearings on and decide requests for such conditional uses in accordance with such standards and criteria. In granting a conditional use, the Borough Council may attach such reasonable conditions and safeguards, in addition to those expressed in this Chapter, as it may deem necessary to implement the purposes of this Chapter and the Pennsylvania Municipalities Planning Code, Act 247, *as amended*.

### **A. Application:**

1. Submission of Application: The granting of a conditional use by the Borough Council shall be predicated upon the developer's submission of a written application demonstrating that the development for which the conditional use is sought:
  - a. Will not endanger the public health and safety if located where proposed, and that the use will not deteriorate the environment or generate nuisance conditions such as traffic congestion, noise, dust, smoke, glare or vibration;
  - b. Meets all other requirements of this Chapter in the zoning district where the use is proposed;
  - c. Is in general conformity with the Comprehensive Plan for the Borough of Harmony and in harmony with the area in which it is proposed; and
  - d. Is an appropriate use on the proposed site.
2. The applicant/developer shall submit a site plan to scale. The drawings shall indicate the boundaries of his property, location of adjacent streets, the location and height of proposed buildings on the property, proposed grading and storm drainage, and location and number of proposed parking spaces and proposed curb cuts.

### **B. Review**

1. **The Borough Secretary shall accept the conditional use application, examine the application for completeness and immediately forward such application to the Planning Commission for review and recommendation.**
2. **The Planning Commission may call and hold a public hearing to gather additional testimony on the proposed application. The Planning Commission shall submit its recommendations to Borough Council.**

3. Upon receipt of the Planning Commission recommendation, Borough Council shall hold a public hearing, after due public notice, to gather additional testimony. Such public hearing shall be held not later than sixty (60) days following receipt of the completed application. In addition, where the Borough Council fails to commence the required hearing within sixty (60) days of receipt of a complete application or fails to complete the hearing no later than one hundred (100) days after the completion of the applicant's case in chief, unless extended for good cause, the decision shall be deemed to have been rendered in favor of the applicant, unless an extension of time has been agreed to by the applicant.
4. Within forty-five (45) days of the conclusion of the public hearing, Borough Council shall determine whether the conditional use application is to be granted, denied, or granted with such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as may be deemed necessary to provide for the health, safety, morals and general welfare of the residents.
5. Such decision shall be rendered in writing by Borough Council, and shall be delivered to the applicant personally, or mailed return receipt requested to the last known address.
6. The applicant may request, in writing, an extension of the time limitations for review if extenuating circumstances warrant such extension.
7. Where the conditional use application is contested, or denied, such decision shall be accompanied by findings of fact, or conclusions based thereon, together with any reason therefore.
8. Conclusions based on any provisions of this Ordinance, or any rules or regulations, shall contain a reference to the provisions relied on, and the reason(s) why the conclusion is deemed appropriate in light of the facts found.

#### **C. Permit Expiration**

1. Once a conditional use approval has been granted, the applicant shall apply for a building permit and/or certificate of occupancy, within twelve (12) months from the date of approval, or the conditional use approval shall become null and void.
2. Borough Council may, upon written request being filed at least thirty (30) days prior to expiration, grant a time extension not to exceed twelve (12) months. Upon granting any extension, Borough Council shall ensure that the conditional use permit complies with all current Ordinances and codes.

#### **D. Conditional Use Standards and Criteria**

1. Banks, Drive-in - Conditional use in the C-1 zoning district:

- a. Where drive-through windows are used, automobile-stacking areas shall be set back a minimum of ten (10') feet from the property line and five (5') feet from on-site automobile parking areas. The stacking area shall be so located as not to cause patrons parking on-site to move through the stacking area to get from their cars to the entrance.
  - b. Where banks or financial institutions are allowed as a conditional use, evidence shall be presented to the Planning Commission in support of the following:
    - (i) That the proposed size, hours and operational standards shall not adversely affect the surrounding neighborhood;
    - (ii) Adequate parking shall be provided in accordance with Section 118;
    - (iii) The design of all structures and signage, including materials, textures and colors, shall be harmonious with the surrounding neighborhood;
    - (iv) Approved landscape plan;
2. Funeral Homes - Conditional use in the C-1 zoning district:
- a. The minimum lot area shall be forty three thousand five hundred and sixty (43,560) square feet;
  - b. The site shall have frontage on and direct vehicular access to an arterial or collector street;
  - c. Interior traffic circulation on the lot shall be designed to minimize congestion and provide for the lining up of vehicles on the property without obstructing the free flow of traffic on adjoining streets or alleys;
  - d. All off-street parking areas, which adjoin residential zoning classifications, shall be screened by a six-foot (6') dense, compact evergreen hedge.
3. Hotels and Motels - Conditional use in the C-1 zoning district:
- a. All structures shall be compatible with the area;
  - b. All structures within fifty feet (50') of adjacent residential property line(s) shall be screened from the adjacent properties;
  - c. Access shall be from a collector street only;
  - d. All parking areas shall be lighted, with such lighting being shielded from surrounding residential properties;
  - e. All parking areas shall be screened from abutting residential properties, such buffer to be a minimum of six feet (6') in height;
  - f. All land area not used for structures or parking shall be landscaped and maintained.
4. Restaurants, Drive-in - Conditional use in the C-1 zoning district:
- a. There shall be adequate stacking lanes for vehicles placing and awaiting take-out orders;

- b. There shall be sufficient containers for discarded paper products and a method to keep the premises clean;
    - c. There shall be adequate parking, vehicular circulation, and safe access;
    - d. Where the property abuts a residential lot, a fence or dense evergreen hedge shall be placed along the common lot line by the restaurant developer to protect the residence.
  5. Theaters, not including drive-in - Conditional use in the C-1 zoning district:
    - a. Theaters shall not exceed forty-five feet (45') in height and shall meet all applicable performance standards as described in Section 27-115, Subsection B of this Ordinance;
    - b. Minimum front yard depth shall be twenty-five feet (25');
    - c. The minimum side yard shall be ten feet (10');
    - d. Access to the lot shall be by way of an arterial street;
    - e. The following yard requirements shall apply whenever the lot line abuts a residential use or district:
      - (i) Minimum front yard shall be twenty-five feet (25');
      - (ii) No building shall be placed closer than two hundred and fifty feet (250') to any residential use, district, or property line;
      - (iii) A bufferyard of twenty-five feet (25') is required along all property lines.
  6. Manufacture of finished products - Conditional use in the I zoning district:
    - a. All operations shall be entirely within an enclosed building, except as allowed under accessory uses;
    - b. Performance standards in Section 115, Subsection B shall be strictly adhered to;
    - c. Outdoor storage areas shall be screened from nearby public streets and residential properties;
    - d. Areas of the property not occupied by structure or paved shall be landscaped and maintained or left in natural cover;
    - e. The landscaping must meet the applicable requirements of Section 27-115, Subsection L.
  7. Communication Facilities – Conditional use in the I-2 zoning district:
    - a. The lot size dimensions (depth and width) shall be dictated by the fall radius of the tower. The minimum dimensions shall be the radius of the height of the tower in each direction.
    - b. The communication company is required to demonstrate, using technological evidence, that the antenna must go where it is proposed, in order to satisfy its function in the company's grid system.

- c. If a communication company proposes to build a tower (as opposed to mounting the antenna on an existing structure or co-locating on an existing communication tower) it is required to demonstrate that it contacted the owners of all tall structures and existing towers within a one-quarter (1/4) mile radius of the proposed site, seeking permission to install or co-locate on the existing structure or tower and was denied for reasons other than economics. The Borough may deny the application to construct a new tower if the communication company has not made a good faith effort to locate the antenna on an existing structure or tower.
- d. The communication company shall demonstrate that the antenna is the minimum height required to function satisfactorily. No antenna that is taller than this minimum height shall be approved. The maximum height of any antenna shall not exceed two hundred feet (200').
- e. All communication towers shall be "stealth" towers. A stealth tower is a communication tower that is not recognizable as a conventional communication tower (e.g., a metal lattice structure), but instead is disguised, or concealed in such a fashion as to conform to its surroundings. Examples of such stealth towers include a tower that looks like a tree or one which is concealed in a church steeple.
- f. Setbacks from the base of the antenna support structure: If a new antenna support structure is constructed (as opposed to mounting the antenna on an existing structure or tower) the minimum distance between the base of the support structure or any wire or cable anchors and any property line shall be the largest of the following:
  - (i) One hundred percent (100%) of antenna height;
  - (ii) The minimum setback in the applicable zoning district;
  - (iii) Fifty feet (50') minimum.
  - (iv) A fence shall be required around the antenna support structure and other equipment, unless the antenna is mounted on an existing structure or tower. The minimum height of the fence shall be eight feet (8').
- g. The following landscaping shall be required to screen as much of the support structure as possible, the fence surrounding the support structure and any other ground level structures. The Borough may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping if they achieve the same degree of screening as the required landscaping. If the antenna is mounted on an existing structure or tower and the support equipment is housed within an existing structure, landscaping will not be required:

- (i) An evergreen screen shall be required to surround the site. The plantings can be either a hedge (planted three feet [3'] on center) or a row of evergreen trees (planted ten feet [10'] on center). The evergreen screen shall be a minimum height of six feet (6') at planting and shall grow to a minimum of fifteen feet (15') at maturity.
  - (ii) Existing vegetation shall be preserved to the maximum extent possible.
- h. In order to reduce the number of antenna support structures within the Borough in the future, the proposed support structure shall be required to accommodate other users, including other private and public users. In addition, a linear two (2) mile separation shall be maintained between communication towers, measured from the base of the support structure.
- i. The communication company must demonstrate that it is licensed by the Federal Communication Commission.
- j. Antenna support structures shall be painted silver or have a galvanized finish, in order to reduce the visual impact. Support structures may be painted green up to the height of nearby trees. Support structures near airports shall meet all Federal Aviation Administration (FAA) regulations.
- k. Antenna support structures may not be artificially lighted with continuous or strobe red lights, except as otherwise required by the FAA.
- l. A land development (site) plan shall be required for all cell sites, showing the antenna, antenna support structure, building, fencing, buffering, access to public rights of way and all other items required in the Borough of Harmony Subdivision and Land Development Ordinance. The site plan shall not be required if the antenna is to be mounted on an existing structure or tower.
- m. The communication company shall provide financial security in an amount determined to be adequate (by the Borough Engineer) to guarantee removal of the tower upon cessation of use.
- n. In granting the use, the Borough may attach reasonable conditions warranted to protect the public health, safety and welfare including, but not limited to, location, fencing, screening, increased setbacks and the right to use said facilities for public purposes.



- o. All approvals will be only for specific facilities set forth in the application. No additions or alterations thereto shall be permitted without a new application.
8. **Adult Entertainment Establishments** - Conditional use in the I-2 zoning district:
- a. Purpose and Legislative Intent: It is hereby declared a matter of legislative declaration and belief that the well being of the citizens of the Borough of Harmony would be threatened by the presence of adult entertainment establishments as said term is hereinafter defined. These establishments, and the type and character of the merchandise, paraphernalia and services sold in them, create an atmosphere of enticement that is increased by the lascivious and suggestive advertising often employed to promote the availability of these products and services. It is the intent of the Borough of Harmony to regulate the exposure of these establishments.
  - b. It is the firm belief of the legislative body that it has a vital duty and role to protect the moral fiber and standards of its residents; in particular, the minors of the community.
  - c. The location of adult entertainment establishments is of vital concern to society with regard to their location near areas where minors may learn, play, pass by or would be exposed to the advertising, window displays, or the general atmosphere encompassing their operation. The legislative body finds that adult entertainment establishments, because of their very nature, are recognized as having objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby having a deleterious effect upon adjacent areas. Special regulation of these businesses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods. One of the purposes of this regulation is to prevent the concentration or clustering of these establishments in any one area.
  - d. It is the intent of the Borough Council in enacting these regulations relative to adult entertainment establishments to exercise only those powers granted to it. These regulations shall in no way be deemed to permit any adult entertainment establishment, as defined herein, which would otherwise be prohibited or in any way regulated by any other law, statute, ordinance, rule or regulation.
  - e. Further, these regulations are enacted to promote, protect and facilitate the public health, safety, morals and general welfare of all residents of the Borough of Harmony.

- f. **Minimum Spacing and Proximity Requirements:**
- (i) No adult entertainment establishment shall be located within 1,000 feet of any other adult entertainment establishment.
  - (ii) No such establishment shall be located within 800 feet of a residential district, whether such district is located in the Borough of Harmony or in an abutting municipality.
  - (iii) No such establishment shall be located within 800 feet of any parcel of land which contains any one or more of the following specified land uses, whether said uses are located in the Borough of Harmony or in abutting municipalities:
    - (1) Amusement park
    - (2) Camp (for minors' activities)
    - (3) Child care facility
    - (4) Church or other similar religious facility
    - (5) Community center
    - (6) Museum
    - (7) Park
    - (8) Playground
    - (9) School
    - (10) Other lands where minors congregate
- g. The distance between any two adult entertainment establishments shall be measured in a straight line, without regard to intervening structures, from the closet point on the exterior parcel line of each establishment. The distance between any adult entertainment establishment and any land use specified above shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior parcel line of the adult entertainment establishment to the closest point on the property line of said land use.
- h. **Parking.** Off-street parking shall be established at the minimum ratio of one (1) parking space for each 100 square feet of gross floor area and one (1) parking space for each employee.
- i. **Hours of Operation.** Borough Council may impose a limitation on the hours of operation, as necessary, to assure that the intent of the Zoning Ordinance is complied with.
- j. **Visibility From the Street.** No person operating an adult entertainment establishment shall permit, or cause to be permitted, any stock in trade which depicts, describes or relates to specified sexual activities and/or specified anatomical areas as defined herein, to be viewed from the street, sidewalk or highway.

(*Ord. 315*, 11/6/1990, §2; *Ord. 372*, 6/7/2005, §116)

### **SECTION 27-117. Uses by Special Exception**

Where the Borough Council, in this Ordinance, has stated special exceptions to be granted or denied by the Zoning Hearing Board pursuant to express standards and criteria, the Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Section and the Pennsylvania Municipalities Planning Code, Act 247, as amended. A special exception shall not be granted by the Board unless and until:

#### **A. Process and Procedure**

1. A written application for a special exception shall be submitted demonstrating that the development:
  - a. Will not endanger the public health or safety if located where proposed and that the use will not generate nuisance conditions such as traffic congestion, noise, dust, glare or vibration;
  - b. Will not cause substantial injury to the value of other property in the neighborhood where it is to be located;
  - c. Meets all requirements of this Chapter in the zoning district where the use is proposed;
  - d. Is in general conformity with the Comprehensive Plan for the Borough of Harmony and in harmony with the area in which it is proposed.
2. The developer shall submit drawings to the Board indicating the boundaries of the property, location of adjacent streets, the location and height of proposed buildings on the property with dimensions from property lines, access to the property and the location and number of proposed parking spaces.
3. The public hearing shall be held in accordance with Section 27-120, Subsection F.
4. The Board, before it grants a special exception, shall make findings of fact and state its reasons for granting the special exception. The Board shall have the authority to require and approve specific plans, to increase the requirements set forth in this Chapter, but in no case shall the Board have the authority to decrease the requirements of this Chapter for any use in the district it proposes to locate. Any such decrease in the requirements of this Chapter shall only be granted upon the issuance of a variance.
5. All conditions required by the Board shall be entered in the minutes of the meeting at which the permit is granted and also on the certificate of special exception.

B. Special Exception Standards and Criteria:

1. Restaurant, drive-through - Use by special exception in the C-2 zoning district:
  - a. There shall be adequate stacking lanes for vehicles placing and awaiting take-out orders;
  - b. There shall be sufficient containers for discarded paper products and a method to keep the premises clean;
  - c. There shall be adequate parking, vehicular circulation, and safe access;
  - d. Where the property abuts a residential lot, a fence or dense evergreen hedge shall be placed along the common lot line by the restaurant developer to screen the residence, as per the provisions of Section 27-115, L.
2. Bank or financial institution with drive-through service - Use by special exception in the C-2 zoning district:
  - a. Where drive-through windows are used, automobile-stacking areas shall be set back a minimum of ten (10') feet from the property line and five (5') feet from on-site automobile parking areas. The stacking area shall be so located as not to cause patrons parking on-site to move through the stacking area to get from their cars to the entrance;
  - b. Where banks and financial institutions are allowed as a use by special exception, evidence shall be presented to the Zoning Hearing Board in support of the following:
    - i. That the proposed size, hours and operational standards shall not adversely affect the surrounding neighborhood;
    - ii. Adequate parking shall be provided;
    - iii. The design of all structures and signage; including materials, textures and colors; shall be harmonious with the surrounding neighborhood.
    - iv. Approved landscape plan.
3. Conversion Apartments - Use by special exception in the R-1 & C-2 zoning districts:
  - a. Not more than four (4) such apartments shall be accommodated within a single family dwelling existing prior to adoption of this Ordinance, and which is converted to apartment use;
  - b. Each apartment unit shall contain at least four hundred (400) square feet of floor area;

- c. Each apartment unit shall include a private bathroom and separate cooking and food storage facilities;
  - d. At least two (2) means of egress, one of which may be a window, exist from each apartment unit leading directly or by a common hall and/or stairs to the outside at grade;
  - e. Adequate heat, ventilation and artificial lighting shall be provided in each apartment.
4. Nursing Home, Sanitariums, Retirement or Convalescent Homes: Use by special exception in the R-1 zoning district:
- a. A nursing home shall be considered a building for the long term care of elderly, disabled, or terminally ill persons requiring constant attention by skilled staff. A convalescent home shall be considered a building housing persons recovering from serious illness or injury requiring temporary care;
  - b. Such homes may be converted existing dwellings or new buildings with a maximum of six (6) beds in the converted dwelling;
  - c. The total number of individuals that may be cared for or housed in a new home shall not exceed the total acreage of the site multiplied by six (6). In the event that both public sewer and public water lines will serve the home, the number of individuals may be increased up to the total acreage multiplied by eleven (11);
  - d. Nursing and convalescent homes shall have a bed capacity of at least eleven (11) beds, except as provided herein, but no more than two hundred (200) beds. The operator of a nursing or convalescent home shall be licensed or certified by the appropriate State agency or agencies. The license or certification shall be obtained prior to issuance of an occupancy permit by the Borough. A copy of an annual report with evidence of continuing certification shall be submitted to the Zoning Officer in January of each year;
  - e. Additions to any existing dwelling shall be compatible with the original building's appearance and scale, and new development should be consistent with the District in which it is to be located and with applicable residential lot and block standards;
  - f. Twenty-four (24) hour supervision shall be provided at a nursing or convalescent home by staff qualified by the licensing or certification agency;

- g. Adequate provisions shall be made for access by emergency medical and fire vehicles. If more than twenty-five (25) beds are provided, a traffic impact study shall be prepared in accordance with Section 27-115, Subsection N of this Ordinance;
  - h. The minimum area of the property shall be two (2) acres;
  - i. Principal building or buildings on the property shall be set back at least one hundred feet (100') from any right-of-way abutting the site and at least fifty feet (50') from side and rear property lines;
  - j. Outdoor lighting shall be of the cut-off luminaire type, permitting no light escape upwards, no view of the light source from off the property, and no light trespass on adjacent properties.
5. Public Utility Service Buildings - Use by special exception in the R-2 zoning district:
- a. Any outside storage of movable equipment or materials adjoining a residential use or zoning district classification shall be screened by Buffer Area C as required by Section 27-115, Subsection L of this Ordinance.
  - b. Uses involving distribution equipment, which is not enclosed by a building, shall be secured by a fence at least six feet (6') in height with a self-latching gate. The fence shall be supplemented with material that is at least eighty percent (80%) opaque.
  - c. Uses involving distribution equipment, which is not enclosed by a building, shall be adequately screened by a six-foot (6') compact evergreen hedge along all property lines adjacent to residential uses or zoning districts.
  - d. Uses involving towers or other distribution structures, which exceed the height limitations of the district, shall be designed so that in the event of collapse, the structure shall not fall on any adjacent property.
  - e. Off-street parking and loading shall be provided for all buildings in accordance with the applicable requirements for office and/or warehouse buildings specified in Section 27-118 of this Ordinance.
  - f. The applicant shall demonstrate that the granting of the proposed use shall not materially increase traffic congestion on adjacent roads and highways.

6. Apartments in Commercial Buildings. Use by special exception in the C-1 and C-2 Commercial zoning districts only provided:
  - a. Apartments may occupy any tenant space in a building, however, commercial space on the first floor and residential space above is preferred.
  - b. Each apartment contains at least five hundred (300) square feet of gross floor area, cooking, heating and bathing facilities and separate bathrooms.
  - c. At least two (2) means of egress, one of which may be a window, exist from each apartment unit leading directly by a common hall and/or stairs to the outside at grade.
  - d. Adequate heat, ventilation and artificial lighting exist in each apartment (see definitions section).
  - e. Required parking for apartment use is established separate from that serving the commercial use.
  
7. Home Occupations: Permitted as use by special exception in all zoning districts, provided:
  - a. No changes in the exterior appearance of the residential building occur;
  - b. The home occupation takes place in no more than twenty (2) percent of the total floor area of the residential building excluding basement or attic.
  - c. No activity in connection with the occupation occurs outside the residential building except off-street parking as required in Section 118 of this Ordinance, such parking to occur in side and rear yards of the property only, to be no closer than five (5) feet to any side or rear property line and be screened from adjacent residentially zoned properties by means of a dense hedge or fence at least four (4) feet high;
  - d. Signs in connection with the occupation are in accordance with Section 27-119 of this Ordinance;
  - e. No noxious odors, noise, smoke, vibration or glare emanate from the conduct of the occupation;
  - f. No more than two (2) persons not residents in the dwelling are employed in the occupation;
  - g. No exterior storage shall be permitted.

*(Ord. 372, 6/7/2005, §117)*

#### **SECTION 27-118. Minimum Parking and Loading Requirements**

The provisions of this Section apply to all zoning districts and are intended to establish minimum standards for off-street parking and loading in order to avoid congestion on the streets, to protect property values and to promote the public health and safety.

**A. General Requirements for Parking:**

1. Each parking space shall be at least nine (9) feet in width and eighteen (18) feet in length exclusive of access lanes.
2. On a single-family lot or row-house lot, a garage and the access drive to it may be counted in determining required parking space. Where dwelling units share parking and/or garage space required parking determined for one dwelling unit shall not block required parking for other dwelling units.
3. Parking to serve multiple family residential buildings shall be located so that no required space is more than one hundred (100) feet from the building such space is designed to serve.
4. Parking to serve any industrial use located within the zoning district permitting that use shall comply with the provisions of the zoning district where located relating to design, landscaping and setbacks; provided that no required parking space is more than three hundred (300) feet from the building or use such parking space is designed to serve.
5. Commercial establishments in the C-1 and C-2 Districts that are within one thousand (1,000) lineal feet of a municipal parking lot, may receive credit for on-site parking requirements at the rate of one (1) space credit for every five (5) spaces within the municipal lot. No space credit shall be given for increments of less than five (5) spaces in municipal lots. No space credit shall be given for municipal on-street parking stalls. The one thousand (1,000) foot distance shall be measured from the nearest point of the commercial property boundary line to the nearest point of the municipal parking lot boundary line.
6. Parking to serve any industrial use located in a residential zoning district shall meet all of the following requirements:
  - a. The use shall be limited to employee and visitor parking for the industrial use.
  - b. The residential district site utilized for accessory parking must either abut the industrial use or be separated only by a street or way.
  - c. A landscaped buffer shall be provided within the setback areas required in the residential district which is adjacent to any residential use. This buffer shall include a six (6) foot high opaque screening fence, wall or evergreen planting located at the setback line along with other plantings in the setback area.
  - d. Where the parking lot or structure is illuminated, the lighting shall be engineered with high cut-off lighting fixtures to minimize off-site spill.



- e. Access to the site, unless prohibited by physical features or traffic circulation considerations as determined by a Pennsylvania licensed traffic engineer, shall be along the street or way between the industrial district and the residential district.
  - f. The site shall be located so that no required parking space is more than five hundred (500) feet from the industrial building or use such parking space is designed to serve.
7. Whenever a use is enlarged or changed, the additional parking required to serve such enlargement or change shall be in accordance with the requirements of this section is in mixed use the total parking requirements for the various uses shall be added together to determine the total parking required on the property.
8. Access lanes serving parking areas shall be at least twenty-two (22) feet wide where parking is at right angles to the lane and at least fifteen (15) feet wide where parking is at forty-five (45) degrees to the lane except that in industrial areas employee parking need not have access lanes.
9. All parking areas serving any commercial or industrial operation or any residential activity where more than two (2) dwelling units utilize the same area shall be surfaced with an all-weather dust free material.
10. Nothing in this section shall be constructed to require uses existing prior to the passage of this Ordinance to comply with these parking requirements except that any additions to such uses shall be provided with parking areas in accordance with these requirements.

#### **B. General Requirements for Loading**

1. Each loading space shall be large enough to accommodate trucks normally used in serving the operation for which the loading area is provided.
2. Maneuvering space shall be adjacent to the loading area if necessary so that vehicles may change direction and leave as well as enter the loading area moving in a forward direction.
3. Loading areas shall be adjacent to the use or building served except that in a group of buildings in the same use on the same property, one building may be designated to receive and dispatch goods, provided the total applicable floor area in all buildings on the property is aggregated in determining the total required loading spaces.
4. Whenever a use is enlarged or changed, the additional loading required to serve such enlargement or change shall be in accordance with the requirements of this Section.

5. Loading areas and adjacent maneuvering space shall be surfaced with an all weather, dust-free material capable of bearing the weight of vehicles ordinarily traveling over or parking upon the surface.
6. Loading may occur from an alley adjacent to the use served, provided traffic may pass a stopped vehicle in the process of being loaded or unloaded.
7. No part of the area of a property utilized for required parking shall be also used for required loading space.
8. Nothing in this Section shall compel uses existing prior to passage of this Ordinance to comply with these loading requirements except that any additions to such uses or change of use upon the same property shall be provided with loading areas in accordance with these requirements.

**C. Table of Minimum Standards: Required Parking**

Use	Spaces Required
<b>Residential</b>	
Single family dwelling	two (2) per dwelling unit
Duplex, triplex or quadruplex	two (2) per dwelling unit
Town house	two (2) per dwelling unit
Bed and breakfast	one (1) parking space for each guest room, plus two (2) spaces for the resident owner
Apartment building	two (2) per dwelling unit & one (1) per each employee
Convalescent, nursing and rest home	one (1) per each employee & one (1) per six beds
Retirement home	one (1) per each two dwelling units plus one (1) per each employee
<b>Public and Semi-Public</b>	
Theaters	one (1) per five (5) seats
Churches, auditoriums and similar places of enclosed public assembly such as dance halls	one (1) per five (5) seats or one per forty (40) square feet of floor area used for assembly purposes
Bowling alleys	two (2) spaces per bowling lanes plus one (1) per employee
Medical and dental clinics	one (1) per two hundred (200) square feet of floor area
Schools, nonresident	one (1) for each faculty member plus one for each employee
Libraries and museums	one (1) per two hundred fifty (250) square feet of floor area
<b>Commercial</b>	
Motels, motor courts and hotels	one (1) per sleeping room plus one (1)

Use	Spaces Required
	per each employee
Retail commercial and personal service stores without drive-in services	one (1) per three hundred (300) square feet of floor space open to the public & one (1) per each employee on the largest shift
Restaurants without drive-in facilities	one (1) per every four (4) persons that can be seated simultaneously plus one (1) per each employee
Offices with customer service	one (1) per three hundred (300) square service of total floor area
Offices not providing customer service	one (1) per six hundred (600) square feet of total floor area
Service stations	three (3) waiting spaces at each pump island plus five (5) spaces for customer service plus one (1) space for each employee
Clubs, taverns, etc.	one (1) per each two hundred (200) square feet of floor area plus one (1) per each employee
<b>Industrial</b>	
Warehouse, storage, wholesale business and freight terminals	one (1) per each two (2) employees plus one (1) per each company vehicle ordinarily parked on the site
Manufacturing	one (1) per each two (2) employees on the largest shift plus one (1) per each company vehicle ordinarily parked on the site

**D. Table of Minimum Standards: Required Loading:** The following applies to any wholesale or retail commercial or manufacturing operation in which all or a part of the goods or services prepared or sold on the property originate elsewhere.

Total square feet of floor area on all floors excluding area used in the maintenance of the building or buildings	Required number of loading spaces
0 - 2,400	0
2,401 - 15,000	1
15001 - 40,000	2
Each additional 30,000 or fraction thereof	1 additional

- E. The following applies to any service or office function not dealing in products brought to be dispensed from the same property or to apartment buildings:**

Total square feet of floor area on all floors	Required number of loading spaces
0 - 15,000	0
15,001 - 40,000	1
40,001 - 80,000	2
Each additional 40,000 or fraction thereof	1 additional

- F. Review and Approval:** Any proposal to provide new parking and/or loading areas for more than two (2) cars or to expand existing areas, regardless of the zoning districts in which occurring, shall be submitted to the Zoning Officer at the same time that application for constructing the building generating the need for such parking and/or loading. The Zoning Officer, in addition to satisfying himself that adequate parking and/or loading in compliance with this Ordinance is provided, shall also determine that safe access to parking and loading areas from the public highway is available and that advantage is given the pedestrian in the parking area. The developer's submission shall delineate the layout of the parking and loading areas including each parking space and each loading area, as well as means of drainage if the area is paved, and access from the public highway. Any developer proposing a new or expanded industrial operation shall satisfy the Zoning Officer that all employee parking will occur on the property being developed or on nearby property in the industrial zoning districts for which the developer has a long term lease but in no case on an opened public street providing access to other properties.

*(Ord. 338,11/1/1994, §3; Ord. 372, 6/7/2005, §118)*

**SECTION 27-119. Signs**

- A.** Signs may be erected only when in compliance with the following regulations:

**1. General Requirements:**

- a. All signs shall be constructed of durable materials and maintained in good condition. The Zoning Officer may require the owner of a sign to repair it, if in the Officer's opinion it has become dilapidated. If, after thirty (30) days from the date of written notice to repair has been sent, the sign is not repaired, the Zoning Officer may order it removed within an additional period of thirty (30) days.
- b. No sign shall be permitted to be placed upon the roof of any structure or to project above the cornice or eave line of any structure.

- c. No animated signs, signs illuminated by a flashing, pulsating or intermittent source or signs lighted in such a manner as to create glare conditions on adjacent properties or any adjacent highway shall be permitted.
  - d. Building permits shall be required for all signs and must be obtained prior to the erection or placement of signage.
  - e. Temporary signs may be erected within the Borough in accordance with the requirements of this Ordinance and in accordance with the requirements in Subsection D of this Section of the Zoning Ordinance.
  - f. The location of all signs shall not interfere with reasonable sight distances for motorists either using adjacent public roads or leaving or entering the property upon which the sign is proposed or adjacent properties.
  - g. Nonconforming signs, lawfully existing at the time of enactment of this Ordinance, although such sign does not conform to the provisions of this Section, may continue to exist; however, if such nonconforming sign is modified or removed, any future sign on the same premises shall be in conformity with the provisions of this Section.
  - h. Building or wall-mounted signs which project more than fourteen (14) inches from the plane of the wall surface in a perpendicular manner, shall be mounted a minimum of seven (7) feet (84 inches) above grade at the closest point of the sign to the established right-of-way line.
- B. Signs in Residential R-1 and R-2 zoning districts:
- 1. Permitted types of signs:
    - a. Identification of property limited to name and address of occupant, or nature of home based occupation if applicable or, in the case of apartment buildings or groups, the name of the building or group and address and phone number of the management agency.
    - b. Signs advertising property for sale or rent, indicating only owner or broker name, address and phone number.
    - c. Signs identifying public or semi-public institutions, and activities carried on by them.
    - d. Development signs, giving directions to areas under development and indicating the name, address and phone number of the developing agency, the name of the development and the number of lots available only, such signs to be removed within thirty (30) days after sale of the last lot in the development.
    - e. Artisans' signs indicating name, address, phone number and type of service performed by contractor, to be removed not more than

thirty (30) days after structure on which artisan is employed is completed.

2. Size of signs: No sign in any residential district shall exceed six (6) square feet in area except institutional signs or temporary development signs which may be no larger than thirty (30) square feet in area.
3. Location of signs: Only one (1) sign of each type permitted shall be allowed on any property except that where a property abuts two (2) public streets two (2) signs of each type shall be permitted.
4. Height of signs: No sign in residential zoning districts shall exceed six (6) feet in height, measured from the average grade level.
5. Illumination: No sign in residential zoning districts shall be illuminated, except signs identifying public or semi-public institutions, provided such lighting is from a hidden source.

C. Signs in C-1 and Industrial Districts

1. Permitted types of signs
  - a. Any sign permitted in residential zoning districts.
  - b. Signs identifying businesses or industry on the same property as the business or industry advertised.
2. Size of signs
  - a. Signs applied flat to a wall surface shall not exceed ten percent (10%) percent or 32 sq. ft. of the area of the wall to which applied with letters that are no taller than twenty inches (20”) and shall not project above or beyond the wall surface at any point.
  - b. Freestanding signs shall not exceed thirty-two (32) square feet in area and be at ground level.
3. Location of signs: Only one (1) sign of each type permitted shall be allowed on any property except that where a property abuts two (2) or more public streets two (2) or more signs of each type shall be permitted, no more than one of each type abutting each street.
4. Illumination:
  - a. Signs may be lighted provided that the light source is hidden from view by observers on adjacent public streets or adjacent properties and no reflected glare occurs on adjacent roads or properties.
  - b. No sign shall be lighted that faces or partially faces an adjacent residentially zoned property.
5. Height of signs: No sign shall be permitted to be placed higher than the existing building for which the business it advertises is located.
6. Review and Approval: Persons desiring to erect a sign or signs shall apply to the Zoning Officer and submit a plan of their proposal indicating

the location of the sign on the property, location and type of lighting if used, the dimensions of the sign, including height above ground and method of attachment to the building or the ground, including guying. The Zoning Officer shall issue a permit if all applicable parts of this Ordinance are adhered to.

D. Signs in C-2 District

1. Permitted types of signs
  - a. Any sign permitted in residential zoning districts.
  - b. Signs identifying businesses or industry on the same property as the business or industry advertised.
2. Size of signs
  - a. Signs applied flat to a wall surface shall not exceed one (1) square foot for every two (2) lineal feet of building frontage up to a maximum of thirty-two (32) square feet with letters that are no taller than twenty inches (20”) and shall not project above or beyond the wall surface at any point.
  - b. Freestanding signs shall not exceed thirty-two (32) square feet in area and be at ground level.
  - c. Signs extending from the building shall not project more than two (2) lineal feet from the wall.
3. Location of signs: Only one (1) sign of each type permitted shall be allowed on any property except that where a property abuts two (2) or more public streets two (2) or more signs of each type shall be permitted, no more than one of each type abutting each street. Total square footage of the sign is limited to no greater than 32 square feet.
4. Illumination:
  - a. Signs may be lighted provided that the light source is hidden from view by observers on adjacent public streets or adjacent properties and no reflected glare occurs on adjacent roads or properties.
  - b. No sign shall be lighted that faces or partially faces an adjacent residentially zoned property.
5. Height of signs: No sign shall be permitted to be placed higher than the existing building for which the business it advertises is located.

Review and Approval: Persons desiring to erect a sign or signs shall apply to the Zoning Officer and submit a plan of their proposal indicating the location of the sign on the property, location and type of lighting if used, the dimensions of the sign, including height above ground and method of attachment to the building or the ground, including guying. The Zoning Officer shall issue a permit if all applicable parts of this Ordinance are adhered to.

D. Regulations Governing Temporary Signs

1. **Temporary Real Estate Signs.** One temporary real estate sign is permitted on any property being sold, leased or developed, if it is not illuminated and is no larger than six (6) square feet in any residential district and thirty (30) square feet in any commercial district. Such sign shall promptly be removed when the sale, lease or development of the property has been completed and no sign permit shall be required.
2. **Temporary Business Signs.** Temporary business signs, including streamers, banners, pennants, string lights, mobile message boards, portable free-standing signs or other temporary business signs shall be permitted subject to the following restrictions:
  - a. The temporary business signs shall be located only on the property owned or leased by the business doing the advertising and may not be located off the premises of the business.
  - b. No part of the sign or any of its accompanying components shall be located on any other property nor shall utility poles, municipal signs or public streetlights be used for such temporary business signs.
  - c. All signs shall be located off of any sidewalks, streets or other public thoroughfares.
  - d. Temporary business signs may not be kept in place for more than one week. In the event that any temporary business sign is left in place for more than one week it shall no longer be considered temporary and shall require a permit in accordance with the other provisions of Section **119** of this Ordinance. The fact that the information contained in any temporary business sign is changed will not affect the one-week maximum for the sign itself.
  - e. The size of the sign shall not exceed the size of signs permitted in the zoning district as contained in Section **119** of this Ordinance.
3. **Temporary Off-Site Directional Signs.** Temporary off-site directional signs intended for the purpose of directing traffic to activities such as the showing of a model home, home for sale or grand opening shall be permitted subject to the following restrictions:
  - a. The size of the sign shall not exceed ten (10) square feet.
  - b. The temporary off-site directional sign shall not remain in place for more than one week. Signs in place any longer than one week will require compliance with the other



- requirements of Section 27-119 regarding signs other than temporary signs.
- c. The temporary off-site directional sign may be placed only on private property. Such signs may not be placed on any sidewalks, roadways, public rights of way, etc.
  - d. No sign may be placed on any private property without the owner's consent.
  - e. Signs shall not be placed in such a manner so as to distract a motorist's attention from the roadway.
4. **Noncommercial Signs.** Non-commercial signs, including but not limited to announcements advocating candidates for political office or ballot questions, shall be permitted on a temporary basis subject to the following restrictions:
- a. The size of the sign shall be in conformity with the requirements for other signs in the Zoning District.
  - b. For any sign advocating a political candidate or a position on a ballot question, such sign shall be removed within two days after the election has occurred.
  - c. All such non-commercial temporary signs shall be located on private property and may not be placed in any public rights of way or attached to any utility poles, road signs, public street lights, or other public facilities.
  - d. All such non-commercial signs shall be placed on the property only after consent of the property owner has been obtained.
5. **Temporary Construction Project Signs.** A construction project sign identifying a design firm, general contractor or subcontractor shall be permitted subject to the following restrictions:
- a. The size of the sign shall not exceed eight (8) square feet in area.
  - b. Only one (1) sign per construction project shall be permitted on the site.
  - c. A temporary construction project sign may not be erected prior to the visible commencement of construction on the property and shall be removed within ten (10) days after the completion of work on the project.
6. **Other Temporary Signs.** Other temporary signs advertising garage sales, yard sales, porch sales or such other non-commercial private functions shall be permitted subject to the following restrictions:
- a. The size of such signs shall not exceed six (6) square feet.

- b. Such signs must be located on private property and the permission of the property owner must be obtained.
- c. Temporary non-commercial signs under this Section are not permitted within the road right of way and may not be affixed to any public utility poles, street light poles, street signs or other utility structures.
- d. The signs may be posted no earlier than seven (7) days prior to the start of a single day sale; for multi-day sales, such sign may remain up no longer than seven (7) consecutive days.
- e. All signs shall be removed within twenty-four (24) hours after any garage sales, yard sales, porch sales or such other non-commercial private functions have occurred.

*(Ord. 326, 4/6/1993, §2; Ord. 372, 6/7/2005, §119)*

### **SECTION 27-120. Zoning Hearing Board**

Harmony Borough hereby creates a Zoning Hearing Board for the purpose of carrying out the functions described in this Section under the procedures established for the operation of such a Zoning Hearing Board, hereafter called the "Board."

#### **A. Operation:**

##### **1. Membership:**

- a. The membership of the Board shall consist of three (3) persons, all residents of Harmony Borough, who shall be appointed by the Borough Council and may succeed themselves.
- b. Members of the Board shall hold no other office in Harmony Borough.
- c. Council may appoint by Resolution one (1) but not more than three (3) residents of the Borough to serve as alternate members of the Board for three (3) year terms. None shall hold any other public office in the Borough. Alternate members shall be selected in rotation by the Board Chairman to serve in the place of a regular member who is unable to sit on a particular case. The alternate shall have the full powers and duties of the replaced regular member during the case, and may participate in any other proceeding or discussion of the Board but without the right to vote.

##### **2. Term of Office:**

- a. Members of the Board shall be appointed for three (3) year terms except that on the initial appointment, one member shall be appointed for one (1) year, one member for two (2) years and one member for three (3) years. Thereafter, all appointments shall be for three (3) years.
- b. Appointments to fill vacancies shall be made by the Borough Council for the unexpired portion of a term only.

**3. Removal of Members:**

- a. 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 accused Board member has received at least fifteen (15) days notice such vote will be taken.
- b. The Board member thus accused may request a hearing before Borough Council by written communication to the Borough Secretary no later than seven (7) days prior to the meeting of the Borough Council at which the vote for removal is to be taken. After the hearing the Council, at its discretion, may take a vote for removal of the Board member.

**4. Organization of the Board:**

- a. The Board shall elect officers from among its membership, to include a Chairman, Vice-Chairman and Secretary.
- b. The Board shall establish a regular monthly meeting date to conduct business.
- c. The Board shall reorganize at its first meeting in each calendar year.
- d. Board members may succeed themselves in their positions as officers.
- e. The Chairman shall call and chair all meetings of the Board.
- f. The Vice-Chairman shall act in the absence of the Chairman.
- g. The Secretary shall assume the responsibility of transcribing and distributing all testimony given at hearings under procedures described below, shall draw up the agenda for each meeting and shall handle all correspondence.
- h. A quorum shall be not less than a majority of all the members of the Board.

- i. The Board may appoint one of its members as a Hearing Officer to conduct a hearing on behalf of the Board and parties to such a hearing may waive further action by the Board if satisfied with the Hearing Officer's ruling.
- B. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
  1. Substantive challenges to the validity of any land use ordinance, except those brought before the Borough Council pursuant to sections 609.1 and 916.1(a)(2) of the Pennsylvania Municipalities Planning Code, Act 247, as amended.
  2. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance. Where the ordinance appealed from is the initial zoning ordinance of the Borough and a Zoning Hearing Board has not been previously established, the appeal raising procedural questions shall be taken directly to court.
  3. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
  4. Appeals from a determination by the Borough Engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance.

### **B. Functions of the Board**

1. Variances:
  - a. The Board shall hear requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. Variances from the terms of this Ordinance shall not be granted by the Board unless a written application for a variance is submitted to the Secretary of the Board demonstrating that:
    - (i) There are unique physical circumstances or conditions including but not limited to irregularity, narrowness or shallowness of lot size or shape or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the

provisions of this Chapter in the neighborhood or district in which the property is located;

- (ii) 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 the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
  - (iii) Such unnecessary hardship has not been created by the appellant;
  - (iv) 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; and
  - (v) The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- b. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Act and the Zoning Ordinance.
  - c. Notices for hearings at which variances are to be considered shall be the same as for any other type of hearing except that, in addition, notice shall be sent by certified mail at least fifteen (15) days prior to the hearing to all owners of record of property within Harmony Borough and within one hundred (100) feet of the boundaries of the property for which the variance is sought, and notice shall be posted on the property for which the variance is sought and at the Harmony Borough Municipal Building at least ten (10) days prior to the hearing.
  - d. The Board shall prescribe a time limit, consistent with the nature of the variance granted and the conditions surrounding the property, within which the action for which the variance is granted shall be begun and completed. Failure to comply with the time limits shall render the variance void.
  - e. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Ordinance in the zoning district containing the property for which the variance is sought.

**C. Special Exceptions:**

1. The Board shall hear requests for special exceptions. Special exception uses are listed for the various zoning districts in Section 27-117 of this Chapter. Only those uses expressly listed may be considered in the particular zoning districts.
2. The application to the Board shall include a written statement demonstrating that:
  - a. The use will not endanger the public health, safety or welfare if located where proposed, and will not deteriorate the environment or generate nuisance conditions;
  - b. The use can be accommodated on the site with no variances required;
  - c. The use is compatible with, or will support the uses in the neighborhood of the site;
  - d. The use does not require extensive earth moving or revision of drainage patterns, or create substantial increase in storm water flow;
  - e. The use will not create excessive traffic congestion, and adequate off-street parking is provided on the same property as the use;
  - f. Areas of the property not to be covered by buildings or paved are to be landscaped and maintained;
  - g. Access points to the property are located as remote as possible from road intersections, and adequate sight distances are available for motorists entering and leaving the property proposed for the use.
3. An accurate scaled illustrative site plan shall show:
  - h. The arrangement of the proposed use on the site, including property lines;
  - i. Uses on adjacent properties;
  - j. Abutting streets;
  - k. Buildings existing and proposed on site, including height and type of use;
  - l. Points of access into the site;
  - m. Internal driveways;
  - n. Parking area layout, denoting number of spaces provided;
  - o. Free-standing signs existing or proposed;
  - p. Areas of proposed earthmoving, indicating proposed grade of finished slope;
  - q. Method of collecting and disposing of stormwater;

- r. Proposed landscaping plan;
  - s. Any other pertinent information necessary to illustrate the proposal.
4. Procedure
- t. The Board shall call and hold a public hearing on the proposal within sixty (60) days of receipt of the required materials.
  - u. The Board may ask for additional information or continue the hearing, but shall conclude the hearing within sixty (60) days after first convening it.
  - v. The Board shall, within forty-five (45) days of the end of the hearing, render a decision on the proposal to either:
    - (i) Approve the plan as submitted;
    - (ii) Approve the plan with certain stipulations determined by the Board;
    - (iii) Deny the proposal.
  - w. The applicant shall have thirty (30) days in which to notify the Board that he accepts any attached stipulations. Failure to accept will render the approval null and void.
  - x. The Board shall authorize the Zoning Officer to issue a building permit for any approved special exception use. Stipulations, if any, shall be written on the building permit.
  - y. Failure of the applicant to apply for a building permit within one (1) year of receiving approval shall render the decision by the Board null and void.
- F. Hearings: The Board shall conduct hearings and make decisions in accordance with the following requirements:
- 5. Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer, all property owners within one hundred feet (100') of the boundaries of the subject property, when applicable, such other persons as the Borough Council shall designate by ordinance and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by ordinance or, in the absence of ordinance provision, by rules of the Board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.
  - 6. The Borough Council may prescribe reasonable fees with respect to hearings before the zoning hearing board. Fees for said hearings 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. The costs, however, shall not include legal expenses of the zoning hearing board, expenses for engineering, architectural or other technical consultants or expert witness costs.

7. The first hearing before the board or hearing officer shall be commenced within sixty (60) days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the board or hearing officer shall be held within forty-five (45) days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within one hundred (100) days of the first hearing. Upon the request of the applicant, the board or hearing officer shall assure that the applicant receives at least seven hours of hearings within the one hundred (100) days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within one hundred (100) days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and Harmony Borough, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.
8. The hearings shall be conducted by the board, or the board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the board; however, the appellant or the applicant, as the case may be, in addition to the Harmony Borough, may, prior to the decision of the hearing, waive decision or findings by the board and accept the decision or findings of the hearing officer as final.
9. The parties to the hearing shall be the Borough, any person affected by the application who has made timely appearance of record before the board, and any other person including civic or community organizations permitted to appear by the board. The board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the board for that purpose.
10. The chairman or acting chairman of the board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.



11. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
12. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
13. 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.
14. 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.
15. The board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
16. The board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer and there has been no stipulation that his decision or findings are final, the board shall make his report and recommendations available to the parties within forty-five (45) days and the parties shall be entitled to make written representations thereon to the board prior to final decision or entry of findings, and the board's decision shall be entered no later than 30 days after the report of the hearing officer. Except for challenges filed under section 916.1 of the Pennsylvania Municipalities Planning Code where the board fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in subsection (b), the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the

record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the board to meet or render a decision as hereinabove provided, the board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision. If the board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

17. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the board not later than the last day of the hearing, the board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

B. Mediation Option:

1. Parties to proceedings authorized in this article and Article X-A of the Pennsylvania Municipalities Planning Code may utilize mediation as an aid in completing such proceedings. In proceedings before the zoning hearing board, in no case shall the zoning hearing board initiate mediation or participate as a mediating party. Mediation shall supplement, not replace, those procedures in this article and Article X-A of the Pennsylvania Municipalities Planning Code once they have been formally initiated. Nothing in this section shall be interpreted as expanding or limiting municipal police powers or as modifying any principles of substantive law.
2. Participation in mediation shall be wholly voluntary. The appropriateness of mediation shall be determined by the particulars of each case and the willingness of the parties to negotiate. Any municipality offering the mediation option shall assure that, in each case, the mediating parties, assisted by the mediator as appropriate, develop terms and conditions for:
  - a. Funding mediation.
  - b. Selecting a mediator who, at a minimum, shall have a working knowledge of municipal zoning and subdivision procedures and demonstrated skills in mediation.
  - c. Completing mediation, including time limits for such completion.
  - d. Suspending time limits otherwise authorized in this act, provided there is written consent by the mediating parties, and by an applicant or municipal decision making body if either is not a party to the mediation.
  - e. Identifying all parties and affording them the opportunity to participate.

- f. Subject to legal restraints, determining whether some or all of the mediation sessions shall be open or closed to the public.
        - g. Assuring that mediated solutions are in writing and signed by the parties, and become subject to review and approval by the appropriate decision making body pursuant to the authorized procedures set forth in the other sections of the Pennsylvania Municipalities Planning Code.
      3. No offers or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.
  - C. Stay of Proceedings: Upon filing of any proceeding referred to in Section 913.3 of the Pennsylvania Municipalities Planning Code and during its pendency before the board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the zoning officer or any other appropriate agency or body certifies to the board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the board or by the court having jurisdiction of zoning appeals, on petition, after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the board.
  - D. Zoning Appeals to Court:
    1. Zoning appeals shall include appeals from the decisions of the Board and appeals upon reports of the Board in proceedings to challenge the validity of any Harmony Borough development ordinance or map.
    2. The court having jurisdiction shall be the Butler County Court of Common Pleas.
    3. All zoning appeals shall be filed not later than thirty (30) days after issuance of notice of the decision or report of the Board.
  - E. Rehearing: If any application for a variance or appeal from the Zoning Officer is denied by the Board, another application shall not be filed within a period of one (1) year from the date of denial, except upon the initiation of the Board after a showing of a change of circumstances which would warrant a rehearing.
  - F. Validity of Ordinance: Substantive Questions
    1. A landowner who, on substantive grounds, desires to challenge the validity of an ordinance or map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest, shall submit the challenge either:
      - a. To the Zoning Hearing Board under this Section; or

- b. To the Borough Council under Section 27-123 together with a request for a curative amendment.
- c. Persons aggrieved by a use or development permitted on the land of another by an ordinance or map, or any provision thereof, who desires to challenge its validity on substantive grounds shall first submit their challenge to the Zoning Hearing Board for a decision thereon under this Section.
- d. The submission referred to in Section 27-123 shall be governed by the following:
  - (i) In challenges before the Zoning Hearing Board, the challenging party shall make a written request to the Board that it hold a hearing on the challenge. The request shall contain the reasons for the challenge. Where the landowner desires to challenge the validity of such Ordinance and elects to proceed by curative amendment, under Section 123, his/her application to the Borough Council shall contain, in addition to the requirements of the written request thereof, the plans and explanatory materials describing the use or development proposed by the landowner in lieu of the use or development permitted by the challenged ordinance or map. Such plans or other materials shall not be required to meet the standards prescribed for preliminary or final approval or for the issuance of a permit, so long as they provide reasonable notice of the proposed use or development and a sufficient basis or evaluating the challenged ordinance or map in light thereof. Nothing herein contained shall preclude the landowner from first seeking a final approval before submitting his challenge.
- e. If the landowner makes the submission to the Borough Council under Section 27-123, the request also shall be accompanied by an amendment or amendments to the ordinance proposed by the landowner to cure the alleged defects therein.
- f. If the submission is made to the Borough Council, the municipal solicitor shall represent and advise it at the hearing or hearings referred to in Section 27-123.
- g. The Borough Council may retain an independent attorney to present the defense of the challenged ordinance or map on its behalf and to present their witnesses on its behalf.
- h. Based upon the testimony presented at the hearing or hearings, the Borough Council or the Zoning Hearing Board, as the case may be, shall determine whether the challenged ordinance or map is defective, as alleged by the landowner. If a challenge heard by a

governing body is found to have merit, the governing body shall proceed as provided in Section 27-123. If a challenge heard by a Zoning Hearing Board is found to have merit, the decision of the Zoning Hearing Board shall include recommending amendments to the challenged ordinance that will cure the defects found. In reaching its decision, the Zoning Hearing Board shall consider the amendments, plans and explanatory material submitted by the landowner and shall also consider:

- (i) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;
- (ii) 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;
- (iii) The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features;
- (iv) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and
- (v) The impact of the proposal on the preservation of agricultural and other land uses which are essential to public health, safety and welfare.

(Ord. 372, 6/7/2005, §120)

#### **SECTION 27-121. Nonconformance**

The provisions of this section shall apply to buildings, structures, signs, lands and uses which become nonconforming as the result of the application of this Ordinance to them or from classification or reclassification of the property under this Ordinance or any subsequent amendments thereto.

##### **A. Nonconforming Lots of Record:**

1. Regardless of the size of a lot of record prior to the passage of this Ordinance, such lot may be developed for any use permitted in the district in which the lot is located provided that where some feature or features of the lot make development in conformance with this Ordinance impossible, the Zoning Hearing Board permits development to occur.

2. If two (2) or more contiguous lots of record in one ownership occur prior to passage of this Ordinance, and if one or all of these lots are less than the requirements for lot width and area as established in this Ordinance, the total contiguous area of all the lots shall be considered as undivided and no portion of the area of lots shall be used or sold unless such portion equals or exceeds the lot width and area requirements of this Ordinance; nor shall any division of the parcel be made which leaves remaining any lot with width or area less than the requirements of this Ordinance.

B. Nonconforming Uses of Land:

1. Where at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, provided the following conditions are applied:
  - i. The parcel of land upon which a nonconforming use is located cannot be expanded to extend the nonconforming use, but the nonconforming use may expand to the limits imposed by the controls of this Ordinance on the parcel of land occupied at time of adoption of this Ordinance.
  - j. If any such nonconforming use of land ceases for any reason for a period of one (1) year, any subsequent use of such land shall conform to the regulations specified by this Ordinance in the district in which such land is located.

C. Nonconforming Structures:

1. Where a structure exists on a property at the effective date of this Ordinance or any amendment to it and does not conform to the requirements of this Ordinance or its amendment regarding height, setbacks from street or lot lines, lot coverage, etc., such structure may remain subject to the following provisions:
  - k. No such structure may be altered, repaired or replaced so that its non-conformity is increased, except that the wall of a structure that existed legally prior to adoption of this ordinance and protrudes into a required side or rear yard parallel to the adjacent side or rear lot line may be extended along its present line a length not greater than one-half (1/2) the length of the existing wall.
  - l. Should such structure be moved, it shall thereafter conform to the requirements of this Ordinance regarding location on the property.

D. Nonconforming Uses of Structures:

1. Where a structure and/or its premises exists lawfully prior to adoption or amendment of this Ordinance, and becomes nonconforming as a result of passage of this Ordinance, it may remain in the same use indefinitely provided the following conditions are applied:
  - m. A structure devoted to a nonconforming use in the zoning district where such structure is located may be enlarged, rebuilt, structurally changed or moved as long as the structure remains within the original lot boundary and all other sections of this Ordinance are adhered to.
  - n. Provided no structural alterations are made, any nonconforming use of a structure may be changed to a second nonconforming use

upon approval of an application to the Zoning Hearing Board requesting such change, such approval being based, in the Board's findings, upon the second nonconforming use being equally or more appropriate to the zoning district than the original nonconforming use.

- o. The nonconforming use of a structure and/or premises may be superseded by a use permitted in the zoning district where the structure is located and the use of the structure and/or premises shall thereafter conform to the regulations of this Ordinance.
  - p. When a nonconforming use of a structure and/or premises ceases for a period of one (1) year, such use of the structure and/or premises shall not thereafter be re-established.
  - q. Where a nonconforming use of structure and premises exists in combination, the removal of the structure shall terminate the nonconforming use of the premises.
  - r. The maintaining, improving or strengthening to a safe condition of any nonconforming structure shall not be interpreted as being denied by any portion of this Section of the Ordinance.
- E. Registration of Nonconforming Uses:
- 1. The Zoning Officer may, at the discretion of Borough Council, identify and register nonconforming uses and/or structures and lots, together with the reasons he identified them as nonconforming.
  - 2. The Zoning Officer shall keep the record current as the Ordinance is amended and as nonconformities are eliminated.

(*Ord. 260, 10/2/1979, §9; Ord. 265, 1/6/1981, §1; Ord. 372, 6/7/2005, §121*)

## **SECTION 27-122. Administration and Enforcement**

Purpose: It is the purpose of this Section to prescribe the procedure by which the administration of this Ordinance shall take place. Nothing contained within this shall be interpreted as limiting the adoption of administrative regulations which do not supersede the procedures outlined in this Article.

### A. Administration:

- 1. The duty of administering and enforcing the provisions of this Section is hereby conferred upon the Zoning Officer who shall have such powers as are conferred upon him/her by this Ordinance.
- 2. The Zoning Officer shall meet qualifications established by the Borough and shall be able to demonstrate, to the satisfaction of the Borough Council, a working knowledge of municipal zoning. He/she shall be appointed by Borough Council and shall hold no other elective office in the Borough.



3. The Zoning Officer shall administer and enforce this Chapter in accordance with its literal terms and shall not have the power to permit construction or any use or change of use which does not conform to this Ordinance.
  4. The duties of the Zoning Officer shall be:
    - a. To examine all applications for permits, and make inspections of sites where construction has been permitted;
    - b. To issue permits only for construction and uses which comply with the requirements of this Ordinance, its amendments and other applicable regulations within the Borough, including the current building code;
    - c. To record and file, in the Borough Office, all applications for permits and accompanying plans;
    - d. To administer the current Borough Zoning and Subdivision and Land Development Ordinances, to issue all necessary stop work orders and notices of violation;
    - e. Upon request by the Planning Commission or Zoning Hearing Board, present such facts, records and other information on specific requests to assist such body in its decision making;
    - f. To represent the Borough before the Zoning Hearing Board and in hearings where a variance has been requested from this Ordinance.
- B. Notification of Violation: Any apparent violation of this Ordinance which is observed by the Zoning Officer, or any other Borough official, shall cause such official to initiate the following proceedings:
1. The Zoning Officer shall notify, in writing, by certified mail, the person(s) responsible for such violation, indicating the nature of the violation and order the action necessary to correct it. The Zoning Officer shall order discontinuance of illegal use of land, building or structure; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of illegal work being done, or shall take any other action authorized by this Chapter to insure compliance with, or prevent violation of, its provisions.
  2. Notice of Violation shall be given in writing, by certified mail and shall require abatement of the violation within a time period specified in the notice. Such time period will begin on the day of receipt of said notice. In cases of emergency involving the health, safety, and welfare of any person, or the public, immediate correction or abatement of the violation may be imposed.
  3. The Notice of Violation shall contain the following information:
    - a. The name(s) of the owner of record and any other person against whom the Borough intends to take action;
    - b. The location of the property in violation;

- c. The specific violation, with a description of the requirements which have not been met, citing in each instance, the applicable provisions of this Ordinance;
- d. The date before which the steps for compliance must be commenced, and the date before which such steps must be completed;
- e. 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 Chapter.
- f. Failure to comply with the notice in the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

C. Enforcement:

1. This Chapter shall be enforced by the Zoning Officer. No permit of any kind, as provided for in this Chapter, shall be granted by him/her for any purpose except in compliance with the provisions of this Chapter, or a decision of the Zoning Hearing Board or of the Court.
2. Whenever a violation of this Chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully, the causes and basis thereof, shall be filed with the Zoning Officer. He/she shall record each complaint that is properly submitted, immediately investigate and take action thereon, as provided by this Chapter.

D. Penalties:

1. Any person, partnership or corporation who, or which, has violated or permitted the violation of the provisions of this Chapter shall upon being found liable therefore in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than five hundred dollars (\$500.00) 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 be payable until the date of the determination of a violation by the District Justice. If the defendant neither pays, nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice, determining that there has been a violation, further determines that there was a good faith basis for the person, partnership or corporation violating this Ordinance, to have believed that there was no such violation, in which event there shall be deemed to have been only one (1) such violation until the fifth (5th) 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 attorneys fees collected for the violation of this Chapter shall be paid over to the Borough.

2. 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.
3. 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.

E. Building Permits:

1. No building or other structure shall be erected, moved, extended or structurally altered without a permit for such action having been issued by the Zoning Officer.
2. When a structure is to be demolished, the owner must immediately barricade said property, obtain a permit and post Danger or No Trespassing signs to alert the public.
3. The structure must be demolished within sixty (60) days from receipt of the permit.
4. All debris must be removed and all unsafe conditions must be corrected.
5. Applications for building permits shall be made to the Zoning Officer upon forms supplied by the Borough.
6. Applications shall include the following, in duplicate:
  - f. A site plan of the property upon which the proposed construction is to occur, dimensioned and showing:
    - The boundaries of the property, indicating dimensions;
    - Public streets abutting the property;
    - Public utilities in the streets abutting the property and/or easements running across the property;
    - Existing buildings on the property and those within fifty (50) feet of the property boundaries on adjacent properties;
    - The proposed building or structure, indicating height, and dimensions between building or structure and property boundaries; and
    - The location of proposed parking areas and drives, if applicable, indicating the number of parking spaces.
  - g. A narrative statement indicating:
    - The proposed use of the structure to which the permit applies and the use of other existing or proposed buildings or structures on the property;

The number of dwelling units, whether for sale or rent, or commercial retail or service units if applicable, that the building is designed to accommodate;

Evidence that required approvals of agencies of the Commonwealth necessary for the type of building proposed, if applicable, have been secured; and

If the building or structure is part of a larger complex of buildings or structures to be erected over time on the same property, an indication of scheduling of future construction.

7. The Zoning Officer may, to satisfy requirements of other development Ordinances adopted by Harmony Borough, expand the application form to secure additional information necessary to assure conformance with such other development Ordinances.
8. If the application is satisfactory, the Zoning Officer shall approve it and return one (1) copy of the application documents within fifteen (15) days of receipt of the application, together with a signed building permit authorizing the applicant to proceed.
9. If the application is not satisfactory, the Zoning Officer shall return all but one copy of application, documents within fifteen (15) days of receipt of the application together, with a letter indicating the specific reasons why the application cannot be approved.
10. The Zoning Officer shall, from time to time, visit the property whereon the approved construction is taking place in order to assure himself that the work is proceeding in accordance with the application documents.
11. The Zoning Officer shall not be denied access to the property in order to inspect the construction in progress and may order the work halted pending appeal to the Zoning Hearing Board or corrected to conform to the application documents.
12. If an applicant wishes to amend the use, exterior arrangement or construction of his building from that shown on the application documents after such documents are approved, he shall file with the Zoning Officer an application for a building permit to cover the proposed amendment.

F. Occupancy Permits:

1. For new uses:
  - s. Upon completion of the entire building or structure for which a building permit has been issued, the owner of such building or structure shall apply to the Zoning Officer for an occupancy permit.
  - t. The Zoning Officer shall inspect the premises and if satisfied that all conditions of the building permit have been met, shall issue an occupancy permit certifying that the premises comply with the

- provisions of this Ordinance and may be used for the purposes set forth on the building permit.
- u. If the Zoning Officer is not satisfied that all conditions of the building permit have been met, he shall not issue an occupancy permit. He shall inform the property owner immediately of what conditions must be corrected for issuance of the occupancy permit.
  - v. Applications for occupancy permits denied by the Zoning Officer may be appealed to the Zoning Hearing Board.
2. For existing uses:
- w. If a property owner wishes to change the use of any building or structure or the property he owns, he shall apply to the Zoning Officer for an occupancy permit.
  - x. If the Zoning Officer is satisfied that such change does not violate any requirements of this Ordinance or of other development ordinances of Harmony Borough, he shall issue an occupancy permit.
  - y. Applications for occupancy permits for a change of use that are denied by the Zoning Officer may be appealed to the Zoning Hearing Board.
- B. Temporary Use Permits:
- 1. A temporary use permit, issued by the Zoning Officer, shall be required for the following:
    - h. Portable storage modules.
    - i. Movable sheds or storage boxes.
    - j. Roll-off dumpsters.
  - 2. Said temporary use permit shall be in effect for a period of not more than thirty (30) days with an extension for a period of not more than an additional thirty (30) days.

*(Ord. 372, 6/7/2005, §122)*

### **SECTION 27-123. Amendments to this Chapter**

A. Applicability of Ordinance Amendments:

- 1. The regulations, restrictions and zoning district boundaries set forth in this Chapter may from time to time be amended, supplemented, changed or replaced provided that no such action may be taken until after a public hearing upon such proposal.
- 2. When an application for either a special exception or a conditional use has been filed with either the Zoning Hearing Board or Borough Council, as

relevant, and the subject matter of such application would ultimately constitute either a land development as defined in Section 27-105, or a subdivision as defined in Section 27-105 of this Chapter, no change or amendment of the zoning, subdivision or other governing ordinance or plans shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. Provided, further, should such an application be approved by either the Zoning Hearing Board or the Borough Council, as relevant, applicant shall be entitled to proceed with the submission of either land development or subdivision plans within a period of six (6) months or longer or as may be approved by either the Zoning Hearing Board or the Borough Council following the date of such approval in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed before either the Zoning Hearing Board or the Borough Council, as relevant. If either a land development or subdivision plan is so filed within said period, such plan shall be subject to the provisions of Section 508 (1) through (4) of the Pennsylvania Municipalities Planning Code, and specifically to the time limitations of Section 508(4) which shall commence as of the date of filing such land development or subdivision plan.

B. Enactment of Zoning Ordinance Amendments:

1. For the preparation of amendments to zoning ordinances, the procedure set forth in Section 607 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, for the preparation of a proposed zoning ordinance shall be optional.
2. Before voting on the enactment of an amendment, the Borough Council shall hold a public hearing thereon, pursuant to public notice. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the Borough at points deemed sufficient by the Borough along the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one (1) week prior to the date of the hearing.
3. In addition to the requirement that notice be posted, where the proposed amendment involves a zoning map change, notice of the public hearing shall be mailed by the Borough at least thirty (30) days prior to the date of the hearing by first class mail to the addresses to which real estate tax bills are sent for all real property located within the area being rezoned, as evidenced by tax records within the possession of the municipality. The notice shall include the location, date and time of the public hearing. A good faith effort and substantial compliance shall satisfy the requirements of this subsection. This clause shall not apply when the rezoning constitutes a comprehensive rezoning.

4. 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. In addition, where a request for consideration of a rezoning application has been filed, all owners of property within three hundred (300) linear feet of all boundaries of the subject property or properties shall be notified by regular mail of the date of the first meeting or scheduled public hearing at which the application will be discussed. The applicant shall provide to the Borough staff a list containing the names of the aforementioned property owners.
  5. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
  6. 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 Butler County Planning Commission for recommendations.
  7. The Borough may offer a mediation option as an aid in completing proceedings authorized by this Section. In exercising such an option, the Borough and mediating parties shall meet the stipulations and follow the procedures set forth in Section 27-120, Subsection G of this Ordinance.
  8. Within thirty (30) days after enactment, a copy of the amendment to the Zoning Ordinance shall be forwarded to the Butler County Planning Commission.
- C. Initiation: An amendment, supplement, change or repeal of this Ordinance may be initiated by:
1. A resolution or request by the Borough Council;
  2. An official proposal by the Planning Commission; or
  3. A petition presented to the Borough by a landowner, as defined herein.
- D. Procedure:
1. Upon receipt of a petition for an amendment to this Ordinance or its map, the Planning Commission shall review the proposal and submit recommendations, with specific reasons in support of either adopting or rejecting the proposal to the Borough Council within sixty (60) days of receipt of the petition.

2. The Planning Commission may hold a public hearing, pursuant to public notice, if it feels the proposal is of such a controversial nature or is so widespread in its jurisdiction that additional testimony should be gathered.
3. In the case of a petition to change a zoning district boundary, such petition shall be signed by the property owner proposing the amendment. The petition shall contain the legal description of the area proposed to be rezoned.
  - a. In the case of a petition to change the text of this Chapter, such petition shall bear the names of at least ten (10) property owners in the Borough, not more than one (1) such owner representing any one property. The proposed text change shall be specifically stated in the petition. Petitions shall attest that the requirements of this paragraph have been met.
  - b. If the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the Borough at points deemed sufficient by the Borough along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one (1) week prior to the date of the hearing.
  - c. Owners of property within one hundred feet (100') of any boundary of a property or properties for which a change in the zoning district is being sought, shall be informed by regular mail at their addresses of record, by letter, sent at least fifteen (15) days prior to the hearing, indicating the date, time and place of the hearing.
4. The Borough Council shall review the Planning Commission recommendations and shall call a public hearing, pursuant to public notice, after which the Borough Council shall vote approval or disapproval of the proposed amendment within ninety (90) days of the conclusion of the hearing.
5. When the Borough Council proposes an amendment, it shall allow the Planning Commission at least thirty (30) days to review the proposal and submit recommendations before holding a public hearing.
6. Before holding a public hearing the Borough Council shall submit the proposed change to the Butler County Planning Commission at least thirty (30) days prior to the hearing for recommendation, stating the date of the scheduled hearing.
7. If a proposed amendment is revised before final approval to include property not previously affected or to further alter the text, the Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the change.



8. Appeal from a decision of the Borough Council on an amendment proposal shall be to the Butler County Court of Common Pleas.
- E. Rehearing: If a petition for amendment, supplement, change or repeal of this Ordinance is denied by the Borough Council, another petition for a similar change shall not be filed within a period of one (1) year from the date of denial, except upon the initiation of the Borough Council or with the recommendation of, or upon the initiation of, the Planning Commission based upon a change in circumstance which would warrant a rehearing.
- F. Procedure for Landowner Curative Amendments:
1. A landowner who desires to challenge, on substantive grounds the validity of a zoning ordinance or map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest, may submit a curative amendment to the Borough Council with a written request that his challenge and proposed amendment be heard and decided as provided in this Section. The Borough Council shall commence a hearing thereon within sixty (60) days of the request. The curative amendment and challenge shall be referred to the Planning Commission as provided in this Section and notice of the hearing thereon shall be given as provided in Section 27-120.
  2. The hearing shall be conducted in accordance with Section 120 and all references therein to the Zoning Hearing Board shall, for purposes of this Section, be references to the Borough Council. If the Borough does not accept a landowners curative amendment brought in accordance with this subsection and a court subsequently rules that the challenge has merit, the courts decision shall not result in a declaration of invalidity for the entire zoning ordinance and map, but only for those provisions which specifically relate to the landowner's curative amendment and challenge.
  3. If the Borough Council has determined that a validity challenge has merit, they may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment which will cure the challenged defects. The Borough Council shall consider the curative amendments, plans and explanatory material submitted by the landowner and shall also consider:
    - 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, floodplains, aquifers, natural resources and other natural features;
  - d. The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and
  - e. The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.
- G. Procedure for Municipal Curative Amendments: If the Borough determines that its Zoning Ordinance, or any portion thereof, is substantially invalid, it shall take the following actions:
1. The Borough shall declare by formal action, its' zoning ordinance, or portions thereof, substantively invalid and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following such declaration and proposal, the governing body of the municipality shall:
    - a. By resolution make specific findings setting forth the declared invalidity of the zoning ordinance which may include:
      - (i) References to specific uses which are either not permitted, or not permitted in sufficient quantity;
      - (ii) Reference to a class or use or uses which require revision; or
      - (iii) Reference to the entire ordinance which requires revisions.
    - b. Begin to prepare and consider a curative amendment to the Zoning Ordinance to correct the declared invalidity.
  2. Within one hundred and eighty (180) days from the date of the declaration and proposal, the Borough shall enact a curative amendment to validate or reaffirm the validity of its Zoning Ordinance pursuant to the provisions required by this Section in order to cure the declared invalidity of the Zoning Ordinance.
  3. Upon the initiation of the procedures, as set forth in this Section, the Borough Council shall not be required to entertain or consider any landowner's curative amendment filed under Section 27-123(F) nor shall the Zoning Hearing Board be required to give a report requested under Section 27-120(A)(2) and Section 27-120(A)(9) subsequent to the declaration and proposal based upon the grounds identical to or substantially similar to those specified in the resolution required by

Section 27-123(G)(1). Upon completion of the procedures as set forth in this Section, no rights to a cure pursuant to the provisions of Section 123(D) shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended Zoning Ordinance for which there has been a curative amendment pursuant to this Section.

4. The Borough, having utilized the procedures as set forth in this Section and Section 27-123 may not again utilize said procedure for a thirty-six (36) month period following the date of the enactment of a curative amendment, or reaffirmation of the validity of its Zoning Ordinance, pursuant to this Section provided, however, if after the date of declaration and proposal, there is a substantially new duty or obligation imposed upon the Borough by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, the Borough may utilize the provisions of this Section to prepare a curative amendment to its ordinance to fulfill said duty or obligation.

*(Ord. 372, 6/7/2006, §123)*

#### **SECTION 27-124. Schedule of Fees**

- A. The Borough Council shall, from time to time establish by Resolution, a schedule of fees, charges and expenses, and a collection procedure for building permits, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be made available in the Borough Office and may be altered or amended only by the Council.
- B. No permit, certificate, application, or variance shall be issued unless, or until such costs, charges, fees or expenses listed below have been paid in full; nor shall any action be taken on proceedings before the Zoning Hearing Board unless or until charges and fees have been paid in full.
- C. A permit shall be required for all new, permanent construction affecting exterior dimensions on any structure.

*(Ord. 304, 9/5/1981, §3; Ord. 372, 6/7/2005, §124)*

#### **SECTION 27-125. Constitutionality or Invalidity**

If any section, subsection, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Chapter and each section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, adopted, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses or phases be declared invalid or unconstitutional.

*(Ord. 372, 6/7/2005, §125)*

**SECTION 27-126. Repeal of Conflicting Ordinances**

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

*(Ord. 372, 6/7/2005, §126)*

**SECTION 27-127. Effective Date**

This Ordinance is necessary for the immediate preservation of the public health, safety, morals, and general welfare and shall be effective immediately upon its passage and publication.

*(Ord. 372, 6/7/2005, §127)*

**PART II**  
**ZONING MAP**

*(Ord. 364, 7/3/2001, §1)*