

## **Chapter 27**

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**Part 1**

**Title**

**§27-101. Short Title.**

This Chapter shall be known as the “Zoning Ordinance.”  
(*Ord. 657, 11/15/1963, §101*)



**Part 2****Intent and Interpretation****§27-201. Intent and Interpretation.**

1. It is the intent of this Chapter to provide for the renewal of Pitcairn to facilitate residential and business growth, and to develop and preserve desirable amenities in residential areas, so as to promote the health, safety and welfare of its residents. In interpreting and applying the provisions of this Chapter, the requirements shall be held to the minimum necessary to meet the intent of this Chapter.

(*Ord. 657, 11/15/1963, §201*)



**Part 3****Community Development Objectives****§27-301. Community Development Objectives.**

This Chapter is intended to further facilitate implementation of the Borough of Pitcairn's Community Development Plan. These objectives are:

**A. General Borough Objectives.**

(1) Develop a pleasant, attractive, healthy, safe and convenient environment for living, shopping and relaxing.

(2) Promote industrial growth and employment opportunities to broaden the Borough's economic base.

(3) Promote population growth by providing more stimulating social, cultural and economic opportunities.

(4) Assure safe, adequate and attractive housing for the entire population, with particular emphasis on the needs of the lower income families and senior citizens.

(5) Develop an adequate transportation system that provides for the safe and efficient movement of people and goods in and through the Borough.

(6) Encourage the extension of public utilities where economically possible and employ certain extensions as a means of guiding and controlling future development patterns.

(7) Provide adequate and accessible public facilities and services at a reasonable cost with consideration for their impact on stimulating future growth and development at both the local and County level.

(8) Remove and prevent dilapidated housing, buildings and associated environmental characteristics.

(9) Preserve the beauty and natural amenities of the Borough and provide adequate recreational facilities to accommodate the existing and future population.

(10) Coordinate local and County planning efforts and expenditures with the ultimate goal being the controlled and orderly growth and development of the Borough.

**B. Land Use Objectives.**

(1) Discourage the wide dispersion of development with the intent of avoiding or reducing the detrimental effects of unrelated land use patterns and unreasonable costs of extending public facilities and utilities to areas where such extension would impose an undue burden upon the customers or capabilities of those utilities and facilities.

(2) Confine future residential development to prescribed areas to prevent sprawl and encourage utilization of land better suited for other purposes, such as open space for such purposes.

(3) Discourage inharmonious and mutually detracting land use combina-

tions.

(4) Protect natural amenities, flood areas and water sheds.

(5) Promote the development of industrial and commercial areas by locating and preserving sites throughout the municipality that have favorable slope and soil characteristics, are served by transportation and have utilities available or where they can be easily extended.

(6) Institute the provision of public open space and recreational facilities for the present and future population.

(7) Plan recreational areas to accommodate the diversified needs of various age and interest groups.

(8) Protect against incompatible land uses through effective use of screen planting with trees, rows, open spaces or natural breaks in topography.

(9) Develop recreational and open space uses in conjunction with conservation areas for the protection of water sheds, down stream water supplies and flood control.

(10) Encourage the reclamation of derelict land for conservation, aesthetic or other similar purposes.

(11) Enforce the retention policy to preserve slope areas, undeveloped portions of floodplains, submarginal areas for bush and forest growth and limit hillside development beyond a reasonable gradient.

(12) Plan for greater coordination between the Borough and the County through the use of the County Comprehensive Plan as a reference or guide and encourage cooperation between ours and adjacent municipalities to assure similarity of direction and effort in attaining overall allied and correlated goals.

C. *Housing Objectives.*

(1) Promote the availability of safe, adequate and attractive housing for all residents.

(2) Promote the rehabilitation of deteriorating housing and the conservation of existing sound housing.

(3) Promote the removal of dilapidated housing and prevent the further deterioration of remaining units.

(4) Develop a program for providing low income and elderly residents with safe, adequate and attractive housing.

(5) Promote an attractive residential environment by protecting housing values and providing adequate utilities, community facilities and other necessary services.

(6) Promote the amenity of community living by encouraging concentrated community development and increasing the feasibility of providing public services and facilities at a reasonable cost and without undue burden on our residents.

(7) Protect the existing residential character of the Borough.

D. *Transportation System Objectives.*

(1) Develop a circulation system to provide for the safe, rapid and convenient movement of people and goods within and through the Borough.

(2) Coordinate the Borough highway system with the regional highway network to facilitate economic growth.

(3) Provide for the separation of through and local traffic to facilitate pedestrian and vehicular movement within the Borough.

(4) Improve bus and rail service where economically feasible to increase outside contact and interest and to provide their clientele with maximum feasible levels of service.

*E. Community Facilities.*

(1) Provide residential areas with adequate commercial, governmental, recreational and educational facilities.

(2) Improve and support commercial and service centers by promoting concentrated transportation facilities and residential areas.

(3) Strengthen services to the extent that they afford reasonable accessibility to all citizens and provided reasonable levels of service to those citizens.

(4) Institute the provision of educational, cultural, commercial, technical and public facilities to render the Borough an attractive and desirable place to live.

(5) Promote residential concentrations to avoid excessive public facilities and construction costs including service roads.

(6) Institute land use concepts capable of affording adequate space for public buildings and services and especially encouraging the most appropriate arrangement for the facilitation of area police and fire protection.

(7) Coordinate County, Borough and township plan and implementation procedures to avoid duplication or conflict of efforts in the provisions of community facilities and services.

*F. Public Utility Objectives.*

(1) Promote the maximum development of the existing communities by making available complete and adequate utilities.

(2) Provide utilities at a reasonable cost by planning growth areas in relation to utility engineering requirements.

(3) Insure the availability of water supplies by protecting watersheds and stream courses from pollution.

(4) Provide adequate fire protection through the provision of adequate and assured water supplies.

(5) Separate storm and sanitary sewers where economically feasible to minimize potential health hazards.

(6) Install storm drainage facilities where necessary to control excess runoff and prevent erosion and property damage.

*G. Educational Objectives.*

(1) Provide adequate educational facilities in all school districts to meet

minimum recommended standards established by the Pennsylvania Department of Education. [Ord. 846]

(2) Promote physical plant construction conducive to the education process.

(3) Locate schools to stimulate and complement future development; provide economies in terms of time and convenience for students, reduced expenditures for the School District; and minimize potential dangers from nearby industries, highways, watercourses and other environmental factors.

H. *Recreation Objectives.*

(1) Provide recreational facilities capable of promoting the health, safety, morals and general welfare of the individual and the Borough.

(2) Provide a diversified year-round recreation plan and program to serve the residents of the Borough.

(3) Cooperate fully with other State, County and local agencies in the provision of public recreational facilities and programs in the Borough.

(Ord. 657, 11/15/1963; as added by Ord. 710, 4/19/1972, §1; and as amended by Ord. 846, 9/18/1991, §27-301)

**Part 4****Districts and General Provisions****§27-401. Districts.**

For the purpose of this Chapter, the Borough is divided into five districts known as:

- A. R-1 Residential District
- B. R-2 Multiple Family Residential District
- C. B-1 Business District
- D. C-1 Commercial District
- E. S-1 Special District

(*Ord. 657, 11/15/1963, §301; as amended by Ord. 892, 12/18/1996, §1*)

**§27-402. Zoning District Map.**

The boundaries of the districts are shown on the map which is designated as the "Zoning Map." The Zoning Map and all the notations, references and other information shown thereon are a part of this Chapter by reference thereto and have the same force and effect as if fully set forth or described herein. The Zoning District Map is hereby amended and the original amended map is properly attested by the Borough Secretary and is on file in the Pitcairn Municipal Office.

(*Ord. 657, 11/15/1973, §302; as amended by Ord. 892, 12/18/1996, §1*)

**§27-403. District Boundaries.**

The district boundary lines on the Zoning Map are intended to follow lot lines on streets and alleys; and, where the districts designated on the map are bounded approximately by lot lines or the center lines of streets or alleys, such lot line or center line shall be construed to be the boundary of the district, unless such district is otherwise indicated on the map. In the case of unsubdivided property, the district boundary lines shall be determined by the use of the scale or dimensions appearing on the Zoning Map.

(*Ord. 657, 11/15/1963, §303*)

**§27-404. Compliance with Regulations.**

1. No structure shall be erected, converted or altered, nor shall any structure or land be used except for a purpose permitted in the district in which the structure or land is located, except as provided in this Chapter. No structure shall be erected, enlarged or altered except in conformity with the area regulations, minimum yard requirements and minimum off-street parking space requirements of this Chapter for the district in which such structure is located.

2. No part of a yard or other open space required about any structure for the purpose of complying with the provisions of this Chapter shall be included as a part of a yard or other open space similarly required for another structure.

(*Ord. 657, 11/15/1963, §304*)

**§27-405. Nonconforming Uses.**

1. Any legal use of structure or land lawfully existing at the effective date of this Chapter may be continued, even though such use does not conform to the provisions of this Chapter. This nonconforming lawful use of a structure may be extended throughout those existing parts of the structure which were arranged or designed for such use. No nonconforming structure shall be moved, extended, enlarged or structurally altered, except when authorized by the Board in accordance with the provisions of this Chapter.

2. Whenever the lawful use of a structure or land becomes nonconforming through a change in this Chapter or in the district boundaries, such may be continued subject to the same limitations and the same conditions set forth in §27-405.1.

3. A nonconforming use which is abandoned for any period of time or discontinued for a period of 1 year shall not be resumed.

4. A nonconforming lawful use which has been damaged by fire, explosion, act of God or the public enemy to the extent of more than 50 percent of its reproduction value at the time of damage shall not be restored except in conformity with the regulations of the district in which it is located. When damaged by less than 50 percent of its reproduction value, a nonconforming lawful use may be repaired or reconstructed and used as before the time of damage, provided such repairs or reconstruction are completed within 1 year of the date of such damage.

(*Ord. 657, 11/15/1963, §305*)

**Part 5**

**Use Regulations**

**§27-501. Permitted Uses.**

The principal, accessory and conditional uses for each district are shown in the following table. Uses given in the following categories shall be interpreted by the Zoning Hearing Board according to definitions given in Part 11 of this Chapter. Use not specifically listed or interpreted to be included in the categories under this Chapter shall not be permitted.

<b>Permitted Principal Use</b>	<b>Accessory Uses</b>	<b>Conditional Uses</b>
	<b><u>R-1 Residential District</u></b>	
Single-Family Dwelling	Private Garage	Nursery School
Church	Garden Sheds and Shelter	Doctor's or Dentist's Office
School	Home Occupation	Swimming Club
Park	Essential Services	Fire Station
Community Center	Landscaping, Playground, Drive-way, and Site Improvements normally related to residential uses	Group Home
	Swimming Pool	
	Sign (See §27-806 of this Chapter)	
	<b><u>R-2 Multiple Family District</u></b>	
Single-Family Dwelling	Private Garage	Clinics
Two-Family Dwelling (Duplex)	Garden Shed and Shelter	Professional Office
Tri-Quadriplex	Home Occupation	Fire Station
Townhouse/Apartment	Essential Services	Group Residence
Multiple Dwelling	Landscaping, Playground, Drive-way, and Site Improvements normally related residential uses	
Apartment/Hotel	Swimming Pool	
Church	Signs (See §27-806 of this Chapter)	
School		
Park		
Community Center		
Nursing Home		
Doctor's or Dentist's Office		

<b>Permitted Principal Use</b>	<b>Accessory Uses</b>	<b>Conditional Uses</b>
	<b><u>B-1 Business District</u></b>	
Retail Store	Essential Services	Apartment
Personal Service Shop	Garage	Theater
Office and Bank	Storage Building	Restaurant
Business Service Shop	Shelter	Bar, Club
Commercial School	Sign (See §27-806)	
Automobile Sales	Loading Dock	
Gas Station	Landscaping, driveway and other related site improvements	
Motel, Hotel		
Church		
Public Building		
Public Parking Lot or Parking Garage		
	<b><u>C-1 Commercial District</u></b>	
Retail Store	Essential Services	Theater
Light Industry	Garage	Restaurant
Manufacturing	Storage Building	Bar, Club
Apartment	Shelter	Research Lab
Motel, Hotel	Sign (See §27-806)	Adult Entertainment
	Loading Dock	Warehouse
	Landscaping, driveway and other related site improvements	Terminal
		Group Home
		Single-Family Dwelling
	<b><u>S-1 Special District</u></b>	
Parks and Playground	Private Garage	Single-Family Home
Rectory and Church	Garden Shed and Shelter	Townhouse, Apartment
School	Landscaping, driveway, and related site improvements	Mobile Home and Trailer
Public Building	Swimming Pool	
Horticulture	Essential Services	
Essential Services	Home Occupation	
Accessory Use	Sign (See §27-806)	

(Ord. 657, 11/5/1963, §401; as amended by Ord. 760, 7/18/1979, §1; and by Ord. 892,

12/18/1996, §1)



**Part 6**

**Lot and Yard Regulations**

**§27-601. Lot and Yard Requirements.**

The minimum lot area, minimum width of lot, minimum width of each side yard, maximum dwelling density, maximum structure height and maximum area of lot coverage for each zoning district, shall be as shown on the following tables:

**LOT AREA, LOT WIDTH, SIDE YARD, DENSITY, STRUCTURE HEIGHT AND LOT COVERAGE REGULATIONS**

**R-1 Residential District**

	Minimum Lot Area (Sq. Ft.)	Width (Feet)	Front (Feet)	Side (Feet)	Rear (Feet)
Single-Family Dwelling	4,000	40	20	25 percent of frontage 5 ft. min.	20
Church	10,000	200	20		20
School	12,000	200	20		20
Park	10,000	100	20		20
Community Center	10,000	200	20		20
Doctor's/Dentist's Office	10,000	100	20		20
Fire Station	10,000	200	20		20
Club	10,000	100	20		20

Maximum Lot Coverage = 60 percent  
 Maximum Dwelling Unit Density 4 Unit Per Acre  
 Maximum Height = 25 feet (2 stories)  
 Off-Street Parking as per revised §27-701

**R-2 Multiple Family District**

	Minimum Lot Area (Sq. Ft.)	Width (Feet)	Front (Feet)	Side (Feet)	Rear (Feet)
Single-Family Dwelling	4,000	25	20	25 percent of frontage 5 ft. min.	20
Two-Family Dwelling (Duplex)	8,000	50	20		20
Tri-Quadriplex	10,000	100	20		20
Townhouse/Apartment	20,000	100	20		20
Group Residence	10,000	100	20		20
All Other Principle Use	15,000	200	20		20

Maximum Lot Coverage = 60 percent  
 Maximum Dwelling Unit Density 10 Unit Per Acre  
 Maximum Height = 40 feet (3 stories)  
 Off-Street Parking as per revised §27-701

**B-1 Business District**

	Minimum Lot Area (Sq. Ft.)	Width (Feet)	Front (Feet)	Side (Feet)	Rear (Feet)
Retail Store	2,500	25	0	0	20
Personal Service	2,500	25	0	0	20
Office, Bank, Theater	2,500	25	0	0	20
Restaurant, Bar and Club	2,500	25	0	0	20
Apartment	2,500	25	0	0	20

Maximum Height = 40 feet (3 stories)  
 Off-Street Parking as per revised §27-701

**C-1 Commercial District**

	Minimum Lot Area (Sq. Ft.)	Width (Feet)	Front (Feet)	Side (Feet)	Rear (Feet)
Light Manufacturing	10,000	75	20	25 percent of frontage 10 ft. min.	25
Manufacturing	10,000	75	20		25
Retail	5,000	50	20		25
Apartment	5,000	50	20		25
Motel, Hotel	10,000	50	20		25
Research Lab	10,000	75	20		25
Adult Entertainment	10,000	75	20		25
Warehouse	15,000	100	20		25
Terminal	20,000	100	20		25
Group Home, Clinic	10,000	50	20		25
Single-Family Dwelling	4,000	40	20		20

Maximum Height = 40 feet (3 stories)  
 Off-Street Parking as per revised §27-701

**S-1 Special District**

	Minimum Lot Area (Sq. Ft.)	Width (Feet)	Front (Feet)	Side (Feet)	Rear (Feet)
Park and Playground	20,000	100	20	15	25
Rectory and Church	20,000	100	20	15	25
School	20,000	100	20	15	25
Public Building	20,000	100	20	15	25
Horticulture	20,000	100	20	15	25
Essential Services	20,000	100	20	15	25
Accessory Use	20,000	100	20	15	25

Maximum Lot Coverage = 60 percent  
 Maximum Dwelling Unit Density 4 Unit Per Acre  
 Maximum Height = 25 feet (2 stories)  
 Off-Street Parking as per revised §27-701

(Ord. 657, 11/15/1963, 5501; as amended by Ord. 892, 12/18/1996, §1)

**§27-602. Minimum Lot Area per Family.**

1. In the R-1 Residential District the lot area per family shall not be less than 4,000 square feet.

2. In the R-2 Residential District and the B-1 Business District the lot area per family shall not be less than 2,250 square feet for an unattached single-family dwelling; 1,500 square feet for attached dwellings, row houses and two-family dwellings; and for apartments and other multiple-family dwellings not less than 2,500 square feet for the first family and 1,000 square feet for each additional family.

(Ord. 657, 11/15/1963, 5502)

**§27-603. Existing Lots of Record.**

Any lot of record existing and built upon at the effective date of this amendment and held in separate ownership different from the ownership of adjoining lots may be used for the erection of a single-family dwelling, should the existing building be destroyed to over 50 percent of its replacement value, if otherwise permitted by this Chapter, even though its area and width are less than the minimum requirements of this Chapter.

(Ord. 657, 11/15/1963, 5503; as amended by Ord. 892, 12/18/1996, §1)

**§27-604. Application of Yard Requirements.**

1. No accessory structures shall be located in any required front yard.

2. Structures, whether open or enclosed, such as carports, porches, balconies or platforms above grade level, shall be considered a part of the structure to which they are attached and shall not project into any required front or side yard.

(Ord. 657, 11/15/1963, 5504)

**§27-605. Side and Rear Yard Requirements for Nonresidential Uses Abutting Any “S” or “R” District.**

Nonresidential structures or uses shall not be located or conducted closer to any lot line of any other lot in any “S” or “R” District than the distance specified in the following schedule:

Minimum Side or Rear Yard Abutting any Lot in any “S” or “R” District	Use
20 feet	Off-street parking spaces and access drives for nonresidential uses
40 feet	Churches, schools and public or semipublic structures
70 feet	Recreation facilities, entertainment facilities, motels, trailer parks and all commercial uses

(Ord. 657, 11/5/1963, §505)



**Part 7**

**Off-Street Parking Requirements**

**§27-701. Off-Street Parking Requirements.**

1. *General Requirements.* In all instances in connection with every business, institutional, recreational, residential or other use, there shall be provided, at any time any new structure is erected, any existing structure is enlarged or increased in capacity, or any new use is established, off-street parking spaces for automobiles in accordance with the following requirements:

A. Each off-street parking space shall have an area of not less than 160 square feet exclusive of access drives or aisles, and shall be of usable shape and condition.

B. There shall be adequate provision for ingress and egress to all parking spaces. Where a lot does not abut on a public or private alley or easement of access, there shall be provided an access drive not less than 8 feet in width in the case of a dwelling and not less than 18 feet in width in all other cases, leading to the parking or storage areas required hereunder.

[Ord. 892]

2. *Number of Spaces Required.* The number of off-street parking spaces to be provided shall not be less than the following:

<b>Use</b>	<b>Parking Space Required</b>
Residential	One per dwelling unit
Rental Unit	One per rented room or unit
Church or School	One for each six seats in principal gathering room
Private Club or Lodge	One for each four members
Office, clinic, business service	One for every 300 square feet of floor space
Retail store, personal service establishment, restaurant, assembly hall or funeral home	One for each 150 square feet of floor space
Hospital, sanitarium or convalescent home	One for every three beds and one for each two employees on the maximum working shift.
Industrial use	One for each two employees on the maximum working shift

(Ord. 657, 11/15/1963, §601; as amended by Ord. 892, 12/18/1996, §1)

**§27-702. Special Parking Provisions.**

1. Parking spaces may be located on a lot other than that containing the principal use with the approval of the Board provided a written agreement, approved by the Borough Solicitor, shall be filed with the application for a zoning certificate.

2. *Surfacing.* Any off-street parking area for more than five vehicles shall be graded for proper drainage and surfaced so as to provide a durable and dustless surface.

3. *Lighting.* Any lighting used to illuminate any off-street parking area shall be so arranged as to reflect the light away from adjoining premises in any “S” or “R” district.

(Ord. 657, 11/15/1963, §602)

**Part 8****Special Provisions****§27-801. Performance Standards.**

1. *Fire Hazards.* Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate firefighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material.

2. *Radioactivity or Electrical Disturbance.* No activity shall emit dangerous radioactivity at any point, or electrical disturbance adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance.

3. *Noise.* Noise which is objectionable as determined by the Zoning Hearing Board due to volume, frequency or beat shall be muffled or otherwise controlled, except that air raid sirens and related apparatus used solely for public purposes are exempt from this requirement.

4. *Vibration.* No vibration shall be permitted which is discernible without instruments on any adjoining lot or property.

5. *Odors.* No malodorous gas or matter shall be permitted which is discernible on any adjoining lot or property.

6. *Air Pollution.* Pollution of air by fly ash, dust, vapors, or other substance shall be controlled by the Allegheny County Smoke and Air Pollution Control Ordinance.

7. *Glare.* No direct or reflected glare shall be permitted which is visible from any property or from any public street, road or highway.

8. *Water Pollution.* Pollution of water shall be subject to the requirements and regulations established by the Pennsylvania Department of Environmental Resources. [Ord. 846]

(Ord. 657, 11/15/1963, §701; as amended by Ord. 846, 9/18/1991, §27-801)

**§27-802. Mobile Homes and Mobile Home Parks.**

1. Mobile homes shall be permitted only in approved trailer parks.

2. No mobile home park shall be permitted unless it meets the following requirements:

A. No mobile home park shall have an area of less than 3 acres.

B. Every mobile home site within the park shall have an area of not less than 1,500 square feet.

C. No mobile home shall be sited within 35 feet of any adjacent property.

D. Not less than 10 percent of the gross area of the park shall be improved for recreational activities of the residents of the park.

E. The park shall be appropriately landscaped and screened from adjacent properties.

(Ord. 657, 11/15/1963, §702)

**§27-803. Private Swimming Pools.**

A private swimming pool shall be permitted as an accessory use to any permitted residential use provided:

A. The pool is intended for private accessory use only, and not for commercial or club purposes.

B. The pool shall be walled or fenced so as to prevent uncontrolled access by children from the street or adjacent properties.

(*Ord. 657, 11/15/1963, §703*)

**§27-804. Temporary Structures.**

Temporary structures used in conjunction with construction work shall be permitted only during the period that the construction work is in progress. Permits for temporary structures shall be issued for a 6-month period.

(*Ord. 657, 11/15/1963, §704*)

**§27-805. Unit Development Projects.**

The Zoning Officer may issue zoning certificates for a unified project in any district even though the use of the land, area of lots and depth of yards do not conform in all respects to the provisions of this Chapter, provided:

A. A unit development plan for the area has been approved by the Borough Council. [*Ord. 978*]

B. The tract of land to be developed is not less than 3 acres in area.

C. The unit development plan is consistent with the intent and purposes of this Chapter.

D. No property adjacent to the area will be adversely affected by the projects.

E. The average lot area is not less than the minimum lot area requirements for the district in which the plan is located.

F. The use of land is similar to the uses permitted in the district in which the plan is located.

(*Ord. 657, 11/15/1963, §705; as amended by Ord. 978, 5/31/2011*)

**§27-806. Signs.**

No sign, billboard or exterior graphic display shall be permitted in any district except as herein provided:

A. In any district not exceeding 2 square feet in area will be permitted which announces the name and address of the occupant of the premises on which said sign is located.

B. A bulletin board not exceeding 30 square feet will be permitted in connection with any church, school or similar public structure.

C. Temporary real estate or construction signs will be permitted on the property being sold, leased or developed. Such signs shall be removed promptly when they have fulfilled their function.

D. Business signs in connection with any legal commercial use or structure

will be permitted on the premises of the business, provided:

(1) Such sign contains no information beyond the name, symbol and nature of the business.

(2) Such sign shall contain no information or advertising for any product not sold on said premises.

(3) Said sign shall have an aggregate area not greater than 5 square feet for each foot of width of the wall of the principal structure next to which they are located.

(4) Said sign shall not project over public rights-of-way.

(5) Said sign shall not be illuminated in any manner which may cause undue distraction, confusion or hazard to vehicular traffic on public streets.

*(Ord. 657, 11/15/1963, §706)*



**Part 9****Adult-Oriented Businesses****§27-901. Purpose and Findings.**1. *Purpose.*

A. Pursuant to the authority granted in the Municipalities Planning Code, 53 P.S. §10101 *et seq.*, to promote and secure the health, cleanliness, comfort and safety of the citizens of; to regulate and inspect the use and occupancy of public buildings; to regulate places of public entertainment, amusement and recreation, and to prevent and prohibit public nuisances due to adverse secondary effects, Pitcairn Borough (hereinafter “Borough”) enacts this Chapter to minimize and control the adverse secondary effects of sexually-oriented businesses and thereby protect the health, safety and welfare of its citizens; protect the citizens’ property values and character of surrounding neighborhoods and deter the spread of blight.

B. The Borough has determined that zoning regulation and permitting is a legitimate and reasonable means of accountability to insure that operators of sexually-oriented business comply with reasonable regulations and to insure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

C. The Borough does not intend this Chapter to suppress any speech activities protected by the First Amendment, but to enact a content neutral part which addresses the secondary effects of sexually-oriented businesses. It is not the intent of the Borough in enacting this legislation to deny any person rights of speech protected by the Constitution of the United States of America or the Constitution of Pennsylvania, or both, nor is it the intent of the Borough to impose by this Chapter any additional limitations or restrictions on the contents of any communicative materials, including sexually-oriented films, video tapes, books and other materials. Further, by enacting this legislation, the Borough does not intend to deny or restrict the rights of any adult to obtain or view, or both, any sexually-oriented materials or conduct protected by the Constitution of the United States of America or the Constitution of Pennsylvania, or both, nor protected rights that distributors or exhibitors of sexually-oriented material may have to sell, distribute or exhibit these materials.

2. *Legislative Findings.*

A. The Council of the Borough of Pitcairn finds:

(1) Law enforcement personnel have determined, and statistics and studies performed in a substantial number of communities in this Commonwealth and in the United States indicate, that sexually-oriented businesses have adverse secondary effects, including those specified and recognized at 68 Pa.C.S.A. §5501(a), which secondary effects should be regulated to protect the public health, safety and welfare. These secondary effects include, but are not limited to, the spread of communicable diseases, performance of sexual acts in public places, presence of discarded sexually-oriented materials on public and private property, sexual harassment, obscenity, prostitution and other illegal

sexual activities, crime and neighborhood deterioration.

(2) Based on evidence concerning the adverse secondary effects of adult uses on the community as set forth in reports made available to the Borough and on findings incorporated in the case of *Renton v. Playtime Theaters*, 475 U.S. 41 (1986), *Young v. American Mini Theaters*, 426 U.S. 277, and on studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Biloxi, Mississippi; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; Beaumont, Texas; the Borough finds:

(a) Sexually-oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.

(b) Certain employees of sexually-oriented businesses defined in this Chapter as adult theaters and cabarets engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.

(c) Sexual acts, including masturbation, and oral and anal sex, occur at sexually-oriented businesses especially those which provide private or semi-private booths, or cubicles for viewing films, videos or live sex shows.

(d) Offering and providing such space encourages such activities which create unhealthy conditions.

(e) Persons frequent certain adult arcades, and other sexually-oriented businesses for the purpose of engaging in sex within the premises of such sexually-oriented business.

(f) At least 50 communicable diseases may be spread by activities occurring in sexually-oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV), genital herpes, hepatitis B, Non A or Non B amebiasis, salmonella infections and shigella infections.

(g) The Surgeon General of the United States, in his report of October 22, 1986, has advised the American public that AIDS/HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components and from an infected mother to her newborn.

(h) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(i) Sanitary conditions in some sexually-oriented businesses are unhealthy, in part, because of the activities conducted there are unhealthy, and in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

(j) Numerous studies and reports have determined that semen is

found in the areas of sexually-oriented businesses where persons view adult-oriented films.

(k) Numerous studies and reports have indicated that sexually-oriented businesses have a substantial negative impact on property values and cause neighborhood blight, and that appropriate zoning regulations will help prevent the negative impact of those secondary effects on the community.

(l) The findings noted in clauses (a) through (k) above, raise substantial governmental concerns.

(3) Sexually-oriented businesses have adverse effects in the nature of a public nuisance, which secondary effects should be regulated to protect the public health, safety and welfare.

(4) Sexually-oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

(5) A reasonable zoning regulation and permitting procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and operators of the sexually-oriented business. Further, such a regulatory procedure will place a heretofore nonexistent incentive on the operators to see that the sexually-oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the Borough. It is appropriate to require reasonable assurance that the permittee is the actual operator of the sexually-oriented business, fully in possession and control of the premises and activities occurring within.

(6) Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters and book stores.

(7) Requiring permittees of sexually-oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

(8) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually-oriented business, where such information is substantially related to the significant governmental interest in the operations of such uses, will aid in preventing the spread of sexually transmitted diseases.

(9) It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this Chapter is designed to prevent or who are likely to be witnesses to such activity.

(10) The fact that an applicant for an adult or sexually-oriented use permit has been convicted of a sexually related crime leads to the rational assumption

that the applicant is likely to engage in that conduct in contravention of this Chapter.

(11) The banning of such individuals from the management of sexually-oriented uses for a period of years serve as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

(12) The general welfare, health and safety of the citizens of the Borough will be promoted by the enactment of this Chapter.

(13) The limitation of operating hours of sexually-oriented businesses from 10 a.m. to 11 p.m., Mondays through Saturdays reduces the adverse secondary effects of such businesses, including, particularly, but not limited to, late night noise levels, crime and sexually offensive materials and activities in public areas, and promotes the public health, safety and welfare.

(14) The reasonable regulation and supervision of sexually-oriented businesses tends to discourage sexual acts and prostitution and thereby promote the health, safety and welfare of patrons, clients and customers of these businesses.

(15) The continued unregulated operation of such sexually-oriented businesses would be detrimental to the general health, safety and welfare of citizens of the Borough.

(Ord. 657, 11/15/1963; as added by Ord. 921, --/2001, §1)

### **§27-902. Adult-Oriented Businesses.**

There shall, following the consideration and adoption of this Chapter, be incorporated into this Chapter of Pitcairn Borough, Allegheny County, Pennsylvania as Part 9 thereof; the following regulatory provisions and guidelines relating to adult-oriented businesses:

A. *Definitions.*

B. *Classification.* Sexually-oriented businesses are classified as follows:

- (1) Adult arcades.
- (2) Adult book stores or adult video stores.
- (3) Adult cabarets.
- (4) Adult motels.
- (5) Adult motion picture theaters.
- (6) Adult theaters.
- (7) Escort agencies.
- (8) Nude model studios.
- (9) Sexual encounter centers.

C. *Permit Required.* The following are considered adult or sexually-oriented businesses:

- (1) Any person who operates a sexually-oriented business without a valid permit issued by the Borough is guilty of a violation of this Chapter.
- (2) An application for a permit to operate a sexually-oriented business

must be made on a form provided by the Code Enforcement Officer. Plans approved by the Pennsylvania Department of Labor and Industry depicting the floor plan and plot plan configuration of the premises, including a statement of total floor space to be occupied by the business, must accompany the application. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus 6 inches.

(3) The applicant must be qualified according to the provisions of this Chapter and the premises must be inspected and found to be in compliance with the law by the Code Enforcement Officer.

(4) If a person who wishes to operate a sexually-oriented business is an individual, he must sign the application for a permit as applicant. If a person who wishes to operate a sexually-oriented business is other than an individual, each individual who has a 10 percent or greater interest in the business must sign the application for a permit as applicant. If a corporation is listed as owner of a sexually-oriented business or as the entity which wishes to operate such a business, each individual having a direct or indirect interest often 10 percent or greater in the corporation must sign the application for a permit as applicant.

(5) The fact that a person possess other types of permits issued by the Borough shall not exempt the person from the requirements of obtaining a sexually-oriented business permit under the provisions hereof.

D. *Issuance of Permit.*

(1) The Code Enforcement Officer shall approve the issuance of a permit to an applicant within 30 days after receipt of an application unless he finds one or more of the following to be true:

- (a) An applicant is under 18 years of age.
- (b) An applicant or an applicant's spouse is overdue in his payment to the Borough taxes, fees, fines or penalties assessed against him or imposed upon him in relation to a sexually-oriented business.
- (c) An applicant has failed to provide all information required for issuance of the permit or has falsely answered a question or request for information on the application form.
- (d) An applicant is residing with a person who has been denied a permit by the Borough to operate a sexually-oriented business within the preceding 12 months, or residing with a person whose permit to operate a sexually-oriented business has been revoked within the preceding 12 months.
- (e) The premises to be used for the sexually-oriented business have been reviewed and have been disapproved by the Code Enforcement Officer as not being in compliance with applicable laws and ordinances.
- (f) The permit fee required by this Chapter has not been paid.
- (g) An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this Chapter.
- (h) An individual applicant or any individual holding a direct or

indirect interest of more than 10 percent of a corporate applicant, or any of the officers and directors of a corporate applicant, if the applicant is a partnership; or the manager or other persons in charge of the operation of the applicant's business, has or have been convicted of an offense involving sexual misconduct within the Commonwealth of Pennsylvania, including, but not limited to, prostitution, obscenity and possession of child pornography, or convicted of any offense in any jurisdiction other than the Commonwealth of Pennsylvania that would have constituted an offense involving sexual misconduct if committed within the Commonwealth of Pennsylvania. In order for approval to be denied pursuant to this subsection, the person or persons conviction or release in connection with the sexual misconduct offense must have occurred within 2 years of the date of application in the event of a misdemeanor and within 5 years of the date of application in the event of a felony.

(i) The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually-oriented business and any other information required by the Code Enforcement Officer. The original permit shall be posted in a conspicuous place at or near the entrance to the sexually-oriented business so that it may be easily read at any time. A copy of the original permit shall not be accepted.

(j) The Code Enforcement Officer shall complete his certification that the premises are/are not in compliance within 30 days of receipt of the application by the Code Enforcement Officer.

E. *Fees.* The annual fee for a sexually-oriented business permit shall be in an amount as established from time to time by resolution by Borough Council. [*Ord. 978*]

F. *Inspection.*

(1) An applicant, or permittee, shall permit a reasonable administrative inspection of the premises by the Code Enforcement Officer or agent of the Code Enforcement Officer at any time that the permitted business operation is open for business in order to ensure continued compliance with the law.

(2) Any person who operates a sexually-oriented business or his agent or employee violates this Chapter if such person refuses to permit a lawful inspection of the premises as set forth above.

G. *Expiration of Permit.*

(1) Each permit shall expire 1 year from the date of issuance and may be renewed only by making application as provided in paragraph .C. Application for renewal should be made at least 60 days before the expiration date, the pending of the application will not prevent the expiration of the permit.

(2) If the Code Enforcement Officer denies renewal of a permit, the applicant shall not be issued a permit for 1 year from the date of the denial, except that after 90 days have elapsed since the date of denial, the applicant may be granted a permit if the Code Enforcement Officer finds that the basis for denial of the renewal permit has been corrected or abated.

#### H. *Suspension of Permit.*

The Code Enforcement Officer shall suspend for a period of time not to exceed 60 days if he/she determines that a permittee or an employee of a permittee has:

(1) Violated or is not in compliance with any Section of this Chapter.

(2) Refused to allow an inspection of the sexually-oriented business premises as authorized by this Chapter.

(3) Knowingly permitted gambling by any person on the sexually-oriented business premises.

#### I. *Revocation of Permit.*

(1) The Code Enforcement Officer shall revoke a permit if a cause for suspension set forth in paragraph .H occurs and the permit has been suspended within the preceding 12 months.

(2) The Code Enforcement Officer shall revoke a permit if he or she determines that:

(a) A permittee, or any of the persons specified in paragraph .D(1)(h) of the issuance of permit provisions is or has been convicted of the offenses specified in paragraph .D(1)(h) of the issuance of permit provisions.

(b) A permittee gave false or misleading information in the material submitted to the Borough during the application process.

(c) A permittee or an employee of a permittee has knowingly allowed possession, use or sale of controlled substances on the premises.

(d) A permittee or an employee of a permittee has knowingly allowed prostitution on the premises.

(e) A permittee or an employee of a permittee knowingly operated the sexually-oriented business during a period of time when the permittee's permit was suspended.

(f) A permittee or an employee of a permittee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other explicit sexual conduct to occur in or on the permitted premises.

(g) A permittee is delinquent in payment to the Borough or the Commonwealth of Pennsylvania of any taxes or fees relating to sexually-oriented businesses.

(3) When the Code Enforcement Officer revokes a permit, the revocation shall continue for 1 year, and the permittee shall not be issued a sexually-oriented business permit for 1 year from the date revocation became effective, except that if the revocation is pursuant to clause (2)(a) above, the revocation shall be effective for 2 years in the event of a misdemeanor or 5 years in the case of a felony.

(4) All permit denial, renewal, suspension or revocation decisions shall be sent in writing to the applicant and/or permittee. All such decisions which deny, refuse to renew, suspend or revoke a permit shall state specifically the ordinance requirement not met and any other basis for the decision. After denial of an application, or after suspension or revocation of an application, or

denial of a renewal of an application, or after suspension or revocation of any permit, the application or permittee may appeal to the Zoning Hearing Board of the Borough of Pitcairn. Any such appeal must be filed in writing with the Code Enforcement Officer within 10 days from the date of the mailing of the decision appealed from and shall specify, in detail, the basis for the appeal. Failure or refusal to file said appeal or specify the basis of said appeal with the Code Enforcement Officer shall be deemed a conclusive determination as to the issues or matters addressed by the written decision. If an appeal is timely filed, the Zoning Hearing Board of Pitcairn Borough will then convene, and conduct a hearing pursuant to the provisions of this Chapter and shall render a written decision within the time frame set forth therein. In case of a denial of renewal, or in case of a permit suspension or revocation, the permittee may continue to operate the same extent as immediately prior to the suspension or revocation until the earlier of: (a) the expiration of the 10-day appeal period without filing of an appeal; (b) the date of a final decision dismissing any appeal.

(5) Any person aggrieved by a decision of the Zoning Hearing Board of Pitcairn Borough may appeal to a court of competent jurisdiction pursuant to the provisions of Article X-A of the Pennsylvania Municipalities Planning Code, 53 P.S. §11001-A *et seq.* The Borough shall, upon filing of such appeal, consent to any request by a permit applicant or permittee to the court to give expedited review of such appeal. The Borough shall certify any record to the court within 20 days after the appeal is filed. In the case of a denial of a permit renewal, or in the case of a permit suspension or revocation, the permittee may continue to operate to the same extent as immediately prior to the denial, suspension, or revocation until the earlier of: (a) the expiration of the 30-day appeal period without filing an appeal; or (b) the date of a decision dismissing an appeal by a court of competent jurisdiction.

J. *Transfer of Permit.* A permittee shall not transfer his permit to another person. A permittee shall not operate a sexually-oriented business under the authority of a permit at any place other than the address designated in the application.

K. *Location of Sexually-Oriented Business.*

(1) A person is guilty of a violation of this Chapter if he operates or causes to be operated a sexually-oriented business outside of the district in which a sexually-oriented business shall be located outside a district in which a sexually-oriented business is a permitted use. Sexually-oriented businesses as defined herein shall be permitted in the C-1 Commercial District as a permitted use. Hours of operation shall be from 10 a.m. to 11 p.m. Monday through Saturday, and no such operation shall be permitted on Sundays or legal holidays unless such businesses is permitted by superseded Federal or State laws. [Ord. 978]

(2) A person is guilty of a violation of this Chapter if he operates, or causes to be operated, a sexually-oriented business within 1,500 feet of:

(a) A church, including, without limitation, any property owned or utilized for purposes of a convent, monastery, religious cemetery, religious retreat or any other property utilized for religious functions or uses.

- (b) A public or private pre-elementary, or secondary school.
- (c) A public library.
- (d) A public or private child care facility or nursery school.
- (e) A public park adjacent to any residential district.
- (f) A child-oriented business.
- (g) A college and/or private university.
- (h) Any property situate in Pitcairn Borough, Allegheny County, Pennsylvania, which is zoned or used for residential purposes.

(3) A person is guilty of a violation of this Chapter if he causes or permits the operation, establishment, substantial enlargement or transfer of ownership or control of a sexually-oriented business within 1,500 feet of another sexually-oriented business.

(4) A person is guilty of a violation of this Chapter if he causes or permits the operation, establishment or maintenance of more than one sexually-oriented business in the same building, structure or portion thereof; or undertakes a substantial enlargement of a sexually-oriented business as the same is defined in the definitions of this Chapter.

(5) For the purpose of this Section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually-oriented business is conducted, to the nearest property line of any use or premises identified in subparagraph (2) hereof.

(6) For purposes of subparagraph (3) above, the distance any two sexually-oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

(7) Any sexually-oriented business lawfully operating on the date of enactment of this Chapter that is in violation of paragraphs .A through .F hereof shall be deemed a nonconforming use. In the event that two or more sexually-oriented businesses are located within 1,500 feet of one another and otherwise in a permissible location, the sexually-oriented business shall be abandoned or not utilized as a sexually-oriented business which was first established and continually operating at the particular location shall be considered the conforming use and the latter-established business shall be considered a nonconforming use. In the event a preexisting nonconforming sexually-oriented business shall be abandoned or not utilized as a sexually-oriented business for a period of at least 12 months, said business shall lose its preexisting nonconforming status and must thereafter comply with all provisions of this Chapter to reopen.

(8) A sexually-oriented business lawfully operates a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually-oriented business permit, of any premises or use identified in subparagraph (2) hereof within 1,500 feet of the sexually-oriented business. This provision applies only to the renewal of a valid permit, and does not apply when an application for a permit is submitted after a permit has

expired or has been revoked.

L. *Injunction.* A person who operates or causes to be operated a sexually-oriented business without a valid permit or in violation of this Chapter is subject to an action in equity or a suit for injunction as well as citations for violation of this Chapter.

(*Ord. 657*, 11/15/1963; as added by *Ord. 921*, --/2001, §2; and as amended by *Ord. 978*, 5/31/2011)

**Part 10****Zoning Hearing Board****§27-1001. Zoning Hearing Board.**

1. There is hereby created for the Borough a Zoning Hearing Board in accordance with the provisions of Article IX of the Pennsylvania Municipalities Planning Code, 53 P.S. §10901 *et seq.*

2. The membership of the Board shall consist of three residents of the Borough appointed by resolution by the Borough Council. The terms of office shall be for 3 years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Borough.

3. 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 which appointed the member, taken after the member has received 15 days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

4. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action a quorum shall be not less than a majority of all the members of the Board, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided in this Chapter.

5. The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the Borough and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the Borough and shall submit a report of its activities to the Borough Council as requested by the Borough Council.

6. Within the limits of funds appropriated by the Borough Council, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties, as may be fixed by the Borough Council, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Borough Council.

(*Ord. 657, 11/15/1963; as added by Ord. 710, 4/19/1972, §2; and as amended by Ord. 846, 9/18/1991, §27-901*)

**§27-1002. Jurisdiction.**

1. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

A. Substantive challenges to the validity of any land use ordinance, except those brought before the Borough Council pursuant to §§609.1 and 916.1(a)(2) of the Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S.

§§10609.1, 10916.1.

B. 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 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.

C. 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 therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.

D. 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.

E. Applications for variances from the terms of this Chapter and flood hazard ordinance or such provisions within a land use ordinance, pursuant to §910.2 of the MPC, 53 P.S. §10910.2.

F. Applications for special exceptions under this Chapter floodplain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to §912.1 of the MPC, 53 P.S. §10912.1.

G. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this Chapter.

H. Appeals from the Zoning Officer's determination under §916.2 of the MPC, 53 P.S. §10916.2.

I. Appeals from the determination of the Zoning Officer or Borough Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving applications under Article V or VII of the MPC, 53 P.S. §§10501 *et seq.*, 10701 *et seq.*

2. The Borough Council, shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

A All applications for approvals of planned residential developments under Article VII of the MPC pursuant to the provisions of §702 of the MPC, 53 P.S. §10702.

B. All applications pursuant to §508 of the MPC, 53 P.S. §10508, for approval of subdivisions or land developments under Article V of the MPC, 53 P.S. §10501 *et seq.*

C. Applications for conditional use under the express provisions of this Chapter.

D. Applications for curative amendment to this Chapter or pursuant to §§609.1 and 916.1(a) of the MPC, 53 P.S. §§10609.1, 10916.1(a).

E. All petitions for amendments to land use ordinances, pursuant to the

procedures set forth in §609 of the MPC, 53 P.S. §10609.

F. Appeals from the determination of the Zoning Officer or the Borough Engineer in the administration of any land use ordinance or provisions thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to applications for land development under Articles V and VII of the MPC, 53 P.S. §§10501 *et seq.*, 10701 *et seq.* Where such determination relates only to development not involving an Article V or VII application, the appeal from such determination of the Zoning Officer or the Borough Engineer shall be to the Zoning Hearing Board pursuant to this Section. Where the applicable land use ordinance vests jurisdiction for final administration of subdivision and land development applications in the Planning Commission, all appeals from determinations under this subsection shall be to the Planning Commission and all appeals from the decision of the Planning Commission shall be to court.

(*Ord. 657, 11/15/1963; as added by Ord. 710, 4/19/1972, §2; and as amended by Ord. 846, 9/18/1991, §27-902*)

### **§27-1003. Hearings.**

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the following requirements:

A. Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer 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 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 1 week prior to the hearing.

B. The hearing shall be held within 60 days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.

C. The hearings shall be conducted by the Board or the Board may appoint any member 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 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.

D. 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.

E. 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.

F. 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.

G. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

H. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

I. 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.

J. 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 therefor. Conclusions based on any provisions of this Chapter or of any law, 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 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. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within 60 days from the date of the applicant's request for a hearing, 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 the said decision within 10 days from the last day it could have met to render a decision in the same manner as provided in subsection .A of this Section. 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.

K. 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.

L. *Fees.*

(1) The Borough Council shall establish, by resolution, fees with respect to hearings before the Zoning Hearing Board.

(2) A nonrefundable fee will be charged on all appeals taken to the Zoning Hearing Board to defray the cost of such procedures. That fee will be 10 percent of the proposed improvement contemplated in the zoning appeal with a minimum fee and a maximum fee in an amount as established from time to time by resolution by Borough Council. This fee is to be paid at the time the appeal is filed and no appeal will be considered unless the fee is in fact paid. [Ord. 978]

(Ord. 657, 11/15/1963; as added by Ord. 846, 9/18/1991, §27-903; as amended by Ord. 892, 12/18/1996, §1; and by Ord. 978, 5/31/2011)

**§27-1004. Variances.**

1. The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this Chapter inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

A. That there are unique physical circumstances or conditions, 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.

B. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

C. That such unnecessary hardship has not been created by the applicant.

D. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

E. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

2. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*

(Ord. 657, 11/15/1963; as added by Ord. 846, 9/18/1991, §27-904)

**§27-1005. Special Exceptions.**

Where the Borough Council, in this Chapter, 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 Chapter, as it may deem necessary to implement the purposes of this Chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*

(*Ord. 657, 11/15/1963; as added by Ord. 846, 9/18/1991, §27-905*)

**§27-1006. Parties Appellant Before the Board.**

Appeals raising the substantive validity of any land use ordinance (except those to be brought before the Borough Council pursuant to the Pennsylvania Municipalities Code, procedural questions or alleged defects in the process of enactment or adoption of a land use ordinance; or 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 therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot; 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; from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this Chapter; from the determination of the Zoning Officer or Borough Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving subdivision and land development or planned residential development may be filed with the Zoning Hearing Board in writing by the landowner affected, any officer or agency of the Borough, or any person aggrieved. Requests for a variance and for special exception may be filed with the Board by any landowner or any tenant with the permission of such landowner.

(*Ord. 657, 11/15/1963; as added by Ord. 846, 9/18/1991, §27-906*)

**§27-1007. Time Limitations.**

1. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than 30 days after an application for development, preliminary or final, has been approved by the Borough if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan or from an adverse decision by the Zoning Officer on a challenge to the validity of this Chapter or an amendment hereto or map or an amendment thereto shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

2. All appeals from determinations adverse to the landowner shall be filed by the

landowner within 30 days after notice of the determination is issued.  
(*Ord. 657, 11/15/1963; as added by Ord. 846, 9/18/1991, §27-907*)

**§27-1008. Stay of Proceedings.**

1. Upon filing of any appeal proceeding before the Zoning Hearing Board 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.

2. After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.

3. The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.

4. If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order of the court below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by the petitioner.

(*Ord. 657, 11/15/1963; as added by Ord. 846, 9/18/1991, §27-908*)



**Part 11****Administration and Government****§27-1101. Appointment and Powers of Zoning Officer.**

1. For the administration of this Chapter, a Zoning Officer, who shall not hold any elective office in the Borough, shall be appointed.

2. The Zoning Officer shall meet the qualifications established by the Borough and shall be able to demonstrate to the satisfaction of the Borough a working knowledge of municipal zoning.

3. The Zoning Officer shall administer this Chapter in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to this Chapter.

4. The Zoning Officer is hereby authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of his employment. (*Ord. 657, 11/15/1963; as added by Ord. 710, 4/19/1972, §2; and as amended by Ord. 846, 9/18/1991, §27-1001*)

**§27-1102. Compliance Permits.**

1. *Purpose.* To determine compliance with the provisions of this Chapter, no person shall erect, alter, move or convert any structure or building, or part thereof, nor alter the use of any land, subsequent to the adoption of this Chapter, until a compliance permit has been issued by the Zoning Officer. [*Ord. 978*]

2. *Application for Permits.* All such applications shall be accompanied by plans, in duplicate, drawn to scale, showing the actual shape and dimensions of the lot or lots to be built upon, its block and lot number as recorded, the date of official record of any lot or lots on which construction is proposed, the exact size and location of any building, sign, parking or loading area, or other physical feature existing or proposed on the lot, the existing and intended use of each building or part of a building, the number of families, dwelling units, employees, offices or other appropriate units of occupancy which the building is designed to accommodate, and such other information as may be necessary to determine compliance with this Chapter. One copy of such plans shall be returned to the owner when such plans shall be approved; one copy each of all applications with accompanying plans and documents shall become a public record after a permit is issued or denied.

3. *Issuance of Permits.*

A. It shall be the duty of the Zoning Officer to issue a compliance permit, provided he is satisfied that the structure, building, sign, parking area of premises, and the proposed use thereof, conform with all requirements of this Chapter, and that all other reviews and actions, if any, called for in this Chapter have been complied with and all necessary approvals secured. [*Ord. 978*]

B. All compliance permits shall be issued in duplicate, and one copy shall be kept conspicuously on the premises effected, and protected from the weather, whenever construction work is being performed thereon. No owner, contractor,

workman, or any other persons shall perform any building operations of any kind unless a compliance permit covering such operation has been displayed as required by this Chapter, nor shall they perform building operations of any kind after notification of the revocation of said compliance permit. [Ord. 978]

4. *Denial of Permits.* When the Zoning Officer is not satisfied that the applicant's proposed development will meet the requirements of this Chapter, he shall refuse to issue a compliance permit, and the applicant may appeal to the Zoning Hearing Board for a reversal of the Zoning Officer's decision. [Ord. 978]

5. *Revocation of Permits.* If it shall appear at any time, to the Zoning Officer, that the application or accompanying plot is in any material respect false or misleading, or that work is being done upon the premises differing materially from that called for in the applications filed with him under existing laws or ordinances, he may forthwith revoke the compliance permit, whereupon it shall be the duty of the person holding the same to surrender it and all copies thereof to the said Zoning Officer. After the compliance permit has been revoked, the Zoning Officer may, in his discretion before issuing a new compliance permit, require the applicant to file an indemnity bond in favor of the Borough with sufficient surety conditioned for the compliance with this Chapter and all building laws and ordinances then in force, and in a sum sufficient to cover the cost of removing the building if it does not so comply. [Ord. 978]

(Ord. 657, 11/15/1963; as added by Ord. 710, 4/19/1972, §2; and as amended by Ord. 978, 5/31/2011)

#### **§27-1103. Occupancy Permits.**

1. No dwelling house, apartment or other living quarters, or commercial establishment may be occupied when previously vacated after the date of this Chapter until such time as the owner or his agent has secured an occupancy permit to be issued by the Zoning Officer. [Ord. 978]

2. The application for the occupancy permit shall be on a form provided by the Borough and, at minimum, request the following the following information: address of the premises, name and address of the owner, name of the tenant, if rented. The application shall also disclose the names and occupations of all proposed occupants. [Ord. 978]

3. No permit shall be issued until such time as the premises are deemed to be in a livable and habitable condition as provided by Borough ordinances rules and regulations, statutes and laws of Allegheny County and/or the Commonwealth of Pennsylvania or any agency thereof, after an inspection by the Code Enforcement Officer, and/or any such other persons as Council may require from time to time. [Ord. 978]

4. The application for the permit shall be accompanied by a fee, in an amount as established from time to time by resolution of the Borough Council; if further inspections are required, then an additional fee, also in an amount as established from time to time by resolution of the Borough Council, will be required for each additional inspection before an occupancy permit will be issued. [Ord. 846]

(Ord. 657, 11/15/1963; as added by Ord. 710, 4/19/1972, §2; as amended by Ord. 744, 6/15/1977, §§1-4; by Ord. 839, 8/15/1990, §1; by Ord. 846, 9/18/1991, §27-1003; by Ord. 892, 12/18/1996, §1; and by Ord. 978, 5/31/2011)

**§27-1104. Fees.**

Certain fees in amounts, as established from time to time by resolution, shall be submitted with the application.

(*Ord. 657*, 11/15/1963; as added by *Ord. 710*, 4/19/1972, §2; as amended by *Ord. 784*, 6/16/1982, §1; by *Ord. 846*, 9/18/1991, §27-1004; and by *Ord. 978*, 5/31/2011)

**§27-1105. Causes of Action.**

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

(*Ord. 657*, 11/15/1963; as added by *Ord. 846*, 9/18/1991, §27-1005)

**§27-1106. Enforcement Notice.**

1. If it appears to the Borough that a violation of this Chapter has occurred, the Borough shall initiate enforcement proceedings by sending an enforcement notice as provided in this Section.

2. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.

3. An enforcement notice shall state at least the following:

A. The name 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 Chapter.

D. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

E. The recipient of the notice has the right to appeal to the Zoning Hearing Board within a period of 10 days.

F. Failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

(*Ord. 657*, 11/15/1963; as added by *Ord. 846*, 9/18/1991, §27-1006)

**§27-1107. Enforcement Remedies.**

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 therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the magisterial district judge. 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 magisterial district judge determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this Chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the magisterial district judge and thereafter each day that a violation continues shall constitute a separate violation. [*Ord. 978*]

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.

4. Magisterial district judges shall have initial jurisdiction over proceedings brought under this Section. [*Ord. 978*]

(*Ord. 657, 11/15/1963; as added by Ord. 846, 9/18/1991, §27-1007; and as amended by Ord. 978, 5/31/2011*)

**Part 12****Amendments and Changes****§27-1201. Enactment of Amendments.**

1. The Borough Council may from time to time amend, supplement, or repeal any of the regulations and provisions of this Chapter. The procedure for the preparation of a proposed zoning ordinance as set forth in §607 of the Pennsylvania Municipalities Planning Code, 53 P.S. §10607, is hereby declared 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 perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least 1 week prior to the date of the hearing.

3. 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 30 days prior to the hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendations.

4. 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.

5. At least 30 days prior to the public hearing on the amendment by the Borough Council, the Borough shall submit the proposed amendment to the County planning agency for recommendations.

6. Within 30 days after enactment, a copy of the amendment to this Chapter shall be forwarded to the County planning agency.

(*Ord. 657, 11/15/1963, §1001; as amended by Ord. 846, 9/18/1991, §27-1101*)

**§27-1202. Procedure for Landowner Curative Amendments.**

1. A landowner who desires to challenge on substantive grounds the validity of this Chapter or the Zoning 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 §916.1 of the Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. §10916.1. The curative amendment and challenge shall be referred to the Planning Commission and the County planning agency as provided in §609 and notice of the hearing thereon shall be given as provided in §§610 and 916.1 of the MPC, 53 P.S. §§10609, 10610, and 10916.1.

2. The hearing shall be conducted in accordance with §908 of the MPC, 53 P.S. §10908, 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 landowner's curative amendment brought in accordance with this subsection and a court subsequently rules that the challenge has merit, the court's decision shall not

result in a declaration of invalidity for this entire Chapter and Zoning Map, but only for those provisions which specifically relate to the landowner's curative amendment and challenge.

3. The Borough Council, if it determines that a validity challenge has merit, 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 this Chapter or Zoning 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, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and

E. The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

(*Ord. 657, 11/15/1963; as added by Ord. 846, 9/18/1991, §27-1102*)

### **§27-1203. Procedure for Borough Curative Amendments.**

1. If the Borough determines that this Chapter, or any portion hereof, is substantially invalid, it shall take the following actions:

A. The Borough shall declare by formal action, this Chapter or portions hereof substantially invalid and propose to prepare a curative amendment to overcome such invalidity. Within 30 days such declaration and proposal the Borough Council shall:

(1) By resolution, make specific findings setting forth the declared invalidity of this Chapter which may include:

(a) References to specific uses which are either not permitted or not permitted in sufficient quantity.

(b) Reference to a class of use or uses which requires revision.

(c) Reference to this entire Chapter which requires revisions.

(2) Begin to prepare and consider a curative amendment to this Chapter to correct the declared invalidity.

2. Within 180 days from the date of the declaration and proposal, the Borough shall enact a curative amendment to validate, or reaffirm the validity of, this Chapter pursuant to the provisions of §609 of the Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. §10609, in order to cure the declared invalidity of this

Chapter.

3. Upon the initiation of the procedures as set forth in subsection .1, the Borough Council shall not be required to entertain or consider any landowner's curative amendment filed under §609.1 of the MPC, 53 P.S. §10609.1, nor shall the Zoning Hearing Board be required to give a report requested under §§909.1 or 916.1 of the MPC, 53 P.S. §§10909.1, 10916.1, subsequent to the declaration and proposal based upon the grounds identical or substantially similar to those specified by the resolution required by subsection .1.A. Upon completion of the procedures set forth in subsections .1 and .2, no rights to a cure pursuant to the provisions of §§609.1 and 916.1 of the MPC, 53 P.S. §§10609.1, 10916.1, shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of this Chapter for which there has been a curative amendment pursuant to this Section.

4. The Borough, having utilized the procedures set forth in this Section, may not again utilize said procedure for a period of 36 months following the date of enactment of a curative amendment, or reaffirmation of the validity of this Chapter; provided, however, if after the date of declaration and proposal there is a substantially new duty 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 propose a curative amendment to this Chapter to fulfill said duty or obligation.

*(Ord. 657, 11/15/1963; as added by Ord. 846, 9/18/1991, §27-1103)*



**Part 13****Definitions****§27-1301. Definitions.**

For the purpose of this Chapter, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural, and the plural the singular; and the word “shall” is mandatory and not directory:

*Accessory unit*—a use naturally and normally incidental to, subordinate to and devoted exclusively to the main use of the land or structures. Accessory uses include structures such as a garage, carport, porch or the like used for the conduct or shelter of an accessory use.

*Apartment*—one of a group of dwelling units occupying a common residential structure.

*Board*—any body granted jurisdiction under a land use ordinance or under this Chapter to render final adjudications. [Ord. 846]

*Clinic*—any establishment where patients are examined and treated by doctors or dentists, but not hospitalized overnight.

*Conditional use*—a use permitted in a particular zoning district by the Borough Council pursuant to the provisions of this Chapter and Article VI of the Pennsylvania Municipalities Planning Code, 53 P.S. §10601 *et seq.* [Ord. 846]

*Decision*—final adjudication of any board or other body granted jurisdiction under any land use ordinance or this Chapter to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the court of common pleas of the County and judicial district wherein the Borough lies. [Ord. 846]

*Determination*—final action by an officer, body or agency charged with the administration of any land use ordinance or applications thereunder, except the following:

- (1) The Borough Council.
- (2) The Zoning Hearing Board.
- (3) The Planning Commission, only if and to the extent the Planning Commission is charged with final decision on preliminary or final plans under the subdivision and land development or planned residential development ordinances. Determinations shall be appealable only to the boards designated as having jurisdiction for such appeal.

[Ord. 846]

*Commercial school*—any educational facility operated for profit such as a business school.

*Council*—the Borough Council of the Borough of Pitcairn, Pennsylvania.

*Dwelling unit*—a structure or portion thereof designed or used as the principal place of residence of one family.

*Essential services*—the erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith; reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including structures.

*Family*—one or more persons occupying a premise and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, club, fraternity or hotel.

*Gas station*—any structure or land used for the dispensing, sale or offering for sale at retail of any automobile fuels, oils or accessories, including lubrication of automobiles and replacement or installation of minor parts and accessories but not including major repair work, such as motor replacement, body and fender repair or spray painting.

*Home occupation* -

(1) Any occupation or activity carried on by a member of the immediate family, residing on the premises, provided there is no commodity sold on the premises and no mechanical equipment is used except of a type that is similar in character to that normally used for purely domestic or household purposes; and provided that no display will indicate from the exterior that the structure or land is being utilized in part for any purpose other than that of the dwelling.

(2) Home occupation shall include the use of premises by a physician, surgeon, dentist, lawyer, clergyman or other professional person for consultation or emergency treatment but not for the general practice of his profession.

*Hotel*—a structure in which lodging or boarding and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours.

*House*—see “dwelling unit.”

*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 [*Ord. 846*]

*Lot of record*—any lot which individually or as a part of a subdivision has been recorded in the Office of the Recorder of Deeds of the County.

*Lot, minimum area of*—the horizontally projected area of a lot computed exclusive of any portion of the right-of-way or any public thoroughfare.

*Lot width*—the width of a lot at the setback line of the required front yard measured at right angles to its depth.

*Manufacturing*—the storage, repair, manufacture, preparation, treatment, or processing of any article, substance or commodity when conducted wholly within an enclosed structure.

*Mobile home*—a transportable, single-family dwelling intended for permanent occupancy, contained in one unit or in two or more units designed to be joined into

one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation. [Ord. 846]

*Mobile home lot*—a parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home. [Ord. 846]

*Mobile home park*—a parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes. [Ord. 846]

*Municipal authority*—a body politic and corporate created pursuant to the Act of May 2, 1945, P.L. 382, No. 164, known as the “Municipalities Authority Act of 1945, or the Municipality Authorities Act, Act of June 19, 2001, P.L. 287, No. 22, §1, 53 Pa.C.S.A. §5601 *et seq.*” [Ord. 978]

*Nonconforming lot*—a lot the area or dimension of which was lawful prior to the adoption or amendment of this Chapter, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption or amendment. [Ord. 846]

*Nonconforming structure*—a structure or part of a structure manifestly not designed to comply with the use or extent of use provisions of this Chapter or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of this Chapter or amendment or prior to the application of this Chapter or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs. [Ord. 846]

*Nonconforming use*—a use, whether of land or of structure, which does not comply with the applicable use provisions in this Chapter or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this Chapter or amendment, or prior to the application of this Chapter or amendment to its location by reason of annexation. [Ord. 846]

*Personal service shop*—any enterprise conducted wholly within an enclosed structure for gain, which primarily offers services to the general public such as shoe repair, valet service, watch repairing, barber shop, beauty parlors and related activities, but not including the repair of automobiles and related machinery.

*Planning Commission*—Borough Planning Commission, Borough of Pitcairn, Pennsylvania.

*Professional office*—offices and related spaces for such professional services as are provided by doctors, dentists, lawyers, architects and engineers.

*Public building*—any structure owned or operated by a public body or agency, or by any public utility agency, which dispenses general service to the public, including road maintenance garages and utility substations.

*Public grounds*—includes:

- (1) Parks, playgrounds, trails, paths and other recreational areas and other public areas.
- (2) Sites for schools, sewage treatment, refuse disposal and other publicly

owned or operated facilities.

(3) Publicly owned or operated scenic and historic sites. [Ord. 846]

*Public hearing*—a formal meeting held pursuant to public notice by the Borough Council or Planning Commission, intended to inform and obtain public comment, prior to taking action in accordance with this Chapter. [Ord. 846]

*Public meeting*—a forum held pursuant to notice under the Act of October 15, 1998, P.L. 719, No. 93, 65 Pa.C.S.A. §701 *et seq.*, known as the “Sunshine Act.” [Ord. 978]

*Public notice*—notice published once each week for 2 successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than 7 days from the date of the hearing. [Ord. 846]

*Report*—any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other 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. [Ord. 846]

*Research laboratory*—offices used for the investigation and refinement of scientific knowledge, including the engineering and industrial application of such knowledge, but not including the mass production of products thus engineered.

*Residential uses*—any single-family home, two-family home, attached dwelling, apartment or dwelling group.

*Row dwellings*—two or more separate dwelling units which utilize a common party wall, such as row houses, town houses and the like.

*School*—any educational institution operated by a government agency or by any religious or charitable institution.

*Sign*—any display of any letters, numerals, figures, emblems, or pictures displayed for the purpose of making anything known, whether attached to or on any structure, surface or thing, including, but not limited to, the ground or any rock, tree or other natural object, and which display is visible beyond the boundaries of the lot on which the sign is located.

*Site improvements*—the landscaping and development of a site with driveways, sidewalks, lighting and other improvements which are incidental to the principal use of the land.

*Special exception*—a use permitted in a particular zoning district pursuant to the provisions of this Chapter and Articles VI and IX of the Pennsylvania Municipalities Planning Code, 53 P.S. §§10601 *et seq.*, 10901 *et seq.* [Ord. 846]

*Street*—includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct or any other ways used or intended to be used by vehicular

traffic or pedestrians whether public or private. [*Ord. 846*]

*Structural alterations*—any construction, improvement or change of a supporting member of a structure such as bearing walls, columns, beams or girders.

*Structure*—anything constructed or erected, the use of which requires more or less permanent location on the ground or attached to something having a permanent location on the ground including, in addition to homes and other conventional buildings, porches, carports and billboards, but not including sidewalks, drives and patios.

*Variance*—relief granted pursuant to the provisions of this Chapter and Articles VI and IX of the Pennsylvania Municipalities Planning Code, 53 P.S §10101 *et seq.* [*Ord. 846*]

*Yard*—an open space between a structure and an adjoining lot line, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of the rear yard, the minimum horizontal distance between the lot line and the main structure shall be used.

*Zoning certificate*—the document issued by the Zoning Officer authorizing the use of the land or structures.

*Zoning District Map*—the Zoning District Map or maps of the Borough, together with all amendments subsequently adopted.

*Zoning Officer*—the Zoning Officer or his authorized representative appointed by the Council.

(*Ord. 657*, 11/15/1963, §§1101–1138; as amended by *Ord. 846*, 9/18/1991, §27-1201; and by *Ord. 978*, 5/31/2011)



**Part 14****Commercial Revitalization Zone****§27-1401. Designated Area.**

1. The Commercial Revitalization Zone shall include that area of land between the centerline of Broadway Avenue on the south and the centerline of Merchants Alley on the north from the centerline of Second Street Extension on the west to the centerline of Brinton Avenue on the east.

2. The Commercial Revitalization Zone shall include that area of land between the centerline of Broadway Avenue on the south to the centerline of Salyards Alley on the north from the centerline of Brinton Avenue on the west to the centerline of McGinnins Avenue to the east.

3. The Commercial Revitalization Zone shall include that area of land from the centerline of Broadway Avenue to Turtle Creek as acquired by the borough of Pitcairn through annexation procedures of 1982 and initiated by *Ord. 780* and being a part of those lands defined in said ordinance.

(*Ord. 809, 1/18/1985, Part 1*)

**§27-1402. Guidelines for Facade Rehabilitation.**

1. *Definition.*

*Rehabilitation*—is the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural and cultural values.

2. *General Recommendations.*

A. Retaining distinctive features such as the size, scale, mass, color and materials of buildings that give a distinguishing character.

B. Retaining the architectural integrity of buildings and retaining historical or architecturally significant features of buildings.

3. *General Restrictions.*

A. Applying rehabilitation treatments that are inappropriate for a particular building, inappropriate to the neighborhood.

B. Introducing new and inappropriate materials including signs and lighting that are out of scale to the building and inappropriate to the neighborhood.

4. *Masonry (Brick, Stone, Terra Cotta Concrete, Stucco and Mortar).*

A. *Recommended.*

(1) Retaining original masonry and mortar, whenever possible without the application of any surface treatment.

(2) Repointing only those mortar joints where there is evidence of moisture problems or when sufficient mortar is missing to allow water to stand in the mortar jar.

- (3) Duplicating old mortar in composition, color and texture.
- (4) Duplicating old mortar in joint size, method of application and joint profile.
- (5) Repairing stucco with a stucco mixture that duplicates the original as closely as possible in appearance and texture.
- (6) Cleaning masonry only when necessary to halt deterioration or to remove graffiti stains and always with the gentlest method possible, such as low pressure water and soft natural bristle brushes, or chemical washes appropriate to the particular strength of material.
- (7) Repairing or replacing, where necessary, deteriorated material with new material that duplicates the old as closely as possible.
- (8) Replacing missing significant architectural features, such as cornices, brackets, railings and shutters.
- (9) Retaining the original or early color and texture of masonry surfaces, including early signage wherever possible. Brick or stone surfaces may have been painted or whitewashed.

B. *Not Allowed.*

- (1) Applying waterproof or water repellent coatings or surface consolidation treatments unless required to solve a specific technical problem that has been studied and identified. Coatings are frequently unnecessary, expensive and can accelerate deterioration of the masonry.
- (2) Repointing mortar joints that do not need repointing.
- (3) Using electric saws and hammers to remove mortar can seriously damage the adjacent brick.
- (4) Repointing with mortar of high Portland cement content can often create a bond that is stronger than the building material. This can cause deterioration as a result of the differing coefficient of expansion and the differing porosity of the material and the mortar.
- (5) Repointing with mortar of a differing size or joint profile, texture or color.
- (6) Sandblasting, including dry and wet grit and other abrasives, brick or stone surfaces, this method of cleaning erodes the surface of the material and accelerates deterioration. Using chemical cleaning products that would have an adverse chemical reaction with the masonry materials, i.e., acid on limestone or marble.
- (7) Applying new material which is inappropriate or was unavailable when the building was constructed such as artificial brick siding, artificial cast stone or brick veneer, asbestos asphalt shingles, and aluminum or plastic siding.
- (8) Removing architectural features such as cornices, brackets, railings, shutters, window architraves and doorway pediments.
- (9) Removing paint from masonry surfaces indiscriminately. This may subject the building to damage and change its appearance.

5. *Exterior Metal (Cast Iron, Steel, Pressed Tin, Aluminum, Zinc).*
  - A. *Recommended.*
    - (1) Retaining original material whenever necessary.
    - (2) Cleaning when necessary with the appropriate method. Metals should be cleaned by methods that do not abrade the surface.
  - B. *Not Allowed.*
    - (1) Removing architectural features that are an essential part of a building's character and appearance, illustrating the continuity of growth and change.
    - (2) Exposing metals which were intended to be protected from the environment. Do not use cleaning methods which alter the color, texture, and tone of the metal.
6. *Roof and Roofing.*
  - A. *Recommended.*
    - (1) Preserving the original roof shape and roof line.
    - (2) Replacing deteriorated roof coverings with new material that matches the old in composition, size, shape, color and texture.
    - (3) Preserving or replacing, where necessary, all architectural features that give the roof its essential character, such as dormer windows, cornices, brackets, etc.
  - B. *Not Allowed.*
    - (1) Changing the essential character of the roof by adding inappropriate features such as dormer windows, vents, skylights or mansard roofs.
    - (2) Replacing deteriorated roof coverings with new materials that differ to such extent from the old in composition, size, shape, color and texture that the appearance of the building is altered.
    - (3) Stripping the roof of architectural features important to its character.
7. *Windows and Doors.*
  - A. *Recommended.*
    - (1) Retaining or repairing existing window and door openings, including window sash, glass, lintels, sills, architraves, shutters, doors, pediments, hoods, steps and all hardware.
    - (2) Duplicating the materials, design, and the hardware of the older window sash and doors if new sash and doors are used.
    - (3) Installing visually unobtrusive storm windows and doors, where needed, that do not damage existing frames and that can be removed in the future.
    - (4) Using original doors and door hardware when they can be repaired and reused.
    - (5) Retaining entrances that are appropriate to the building and its development.
    - (6) Repairing or replacing, where necessary, deteriorated architectural

features of wood, iron, cast iron, terre cotta, tile and brick.

B. *Not Allowed.*

(1) Introducing new window and door openings into the principal elevation or enlarging or reducing window or door openings that are inappropriate in scale.

(2) Installing inappropriate new window or door features.

(3) Installing metal strip awnings that detract from the character and appearance of the buildings.

(4) Removing or altering entrances and steps that are appropriate to the building's development and style.

(5) Stripping entrances or original material and architectural features, such as balusters, columns, brackets, and decoration of wood, iron, cast iron, terra cotta, tile and brick.

(6) Enclosing entrances in a manner that destroys their intended appearance.

(Ord. 809, 9/18/1985, Part 2)

**§27-1403. New Construction.**

1. *Recommended.*

A. Keeping new additions and adjacent new construction to a minimum, making them compatible in scale, building materials, and texture.

B. Designing new work to be compatible in materials, size, scale, color and texture with the earlier buildings and the district.

C. Using contemporary designs compatible with the character and mood of the building or the neighborhood.

D. Protecting architectural details and features that contribute to the character of the building.

E. Retain original character of the building through the proper choice of colors to illustrate the distinctive character of the property. Repaint with colors that will be compatible with the street and neighborhood.

F. Retain and repair existing storefronts including windows, sash, doors, transoms, signage, and decorage features where such features contribute to the architectural and historic character of the building.

G. Where original or early storefronts no longer exist or are too deteriorated to save, retain the commercial character of the building through (1) contemporary design which is compatible with the scale, design, materials, color and texture of the historic building; or (2) restoration of the storefront based on historical research and physical evidence.

2. *Not Allowed.*

A. Designing new work which is incompatible with the earlier building and the district in materials, size, scale and texture.

B. Imitating an earlier style or period of architecture in new additions, except in rare cases where a contemporary design would detract from the architectural

unity of an ensemble or group. Especially avoid imitating an earlier style of architecture in new additions that have been a completely contemporary function, such as a drive-in bank.

C. Adding new height to the building that changes the scale and character of the building. Additions in height should not be visible when viewing the principal facades.

D. Adding new floors or removing existing floors that destroy important architectural details, features and space of the building.

E. Placing television antennae and mechanical equipment, such as air conditioners, where they can be seen from the street.

(Ord. 809, 9/18/1985, Part 3)

#### **§27-1404. Signs.**

1. All signs shall be either:

A. Business signs which direct attention to business type of establishment, profession or activity located on the premises where the sign is displayed; types of products sold and/or services offered on said premises.

B. Identification signs used to identify the name of individual or organization occupying the premises, the profession of the occupant, or the name of the building upon which the sign is displayed.

2. Major criteria are as follows:

A. All signs shall be an integral part of the building design.

B. Surface mount new flat signs on sign board of appropriate scale and color.

C. Signs shall be parallel to the building facade.

D. Signs shall be limited to the first floor.

E. Sign boards should not exceed 2 feet in height and should be placed in the traditional sign location just above or in front of the storefront lintel. A frame or molding around the signboard is recommended.

F. Size of letters should be no higher than three-fourths the height of the signboard; normally 8 inches to 15 inches is appropriate.

G. Lettering style should be simple and straight-forward, usually with a serif, as in Clarendon or other Victorian type faces. A dark background with light lettering is usually most effective.

H. Colors should be coordinated with the storefront colors. Letters may be cut-out letters or painted directly on the signboard.

I. Signs shall not project beyond the property line.

J. Real estate signs relating to the prospective sale, rent, or lease of land provided that the total sign area on one street frontage does not exceed 6 square feet.

K. Signs directing and guiding traffic are parking on private property, bearing no advertising matter may be permitted so that the total area of each sign does not exceed 2 square feet.

L. Illuminated signs shall be shielded in such a manner to prevent any glare

to the surrounding area. Any illumination shall be an integral part of the sign but not the face of the sign.

3. Not allowed:

- A. Roof signs are prohibited.
- B. Signs shall not project beyond the roof line and/or parapet of the building.
- C. No signs shall be permitted in second or higher story windows or walls.
- D. Signs shall not be painted on the walls or windows of buildings or any screen walls.
- E. No spots or external lighting shall be focused on the signs or building.
- F. Signs having animated or flashing illumination are prohibited.
- G. No signs shall be painted on awnings or hung from any awning or overhand.
- H. Flamboyant plastic or illuminated signs, "chain-store" or "franchise" signs or signs with elaborate or flamboyant script faces are prohibited.
- I. Exterior "neon" or other lights of the same type shall not be permitted.
- J. No temporary or portable signs of any matter shall be permitted on or around the exterior of a store or allowed on the sidewalk.
- K. No advertising sign, political sign, or any other sign of any nature not controlled by the Borough shall be permitted on any trash receptacle, light pole, power pole or any other appendage within the Commercial Revitalization Zone. This does not include traffic control signs, street name signs, the Borough holiday decorations, bus stop signs, or any other Borough regulated sign erected under the provisions of the Vehicle Code, 75 Pa.C.S.A. §101 *et seq.*

(Ord. 809, 9/18/1985, Part 4)

## **Part 15**

### **Zoning Map Amendments**

<b>Ord./Res.</b>	<b>Date</b>	<b>Subject</b>
Ord. 785	7/21/1982	Amending the Zoning Map by changing the zoning of Lots 9 to 16 in Block E in the Lloyd Plan of Lots from R-2 to B-1.

