

ZONING ORDINANCE

BOROUGH ORDINANCE 404

BOROUGH OF CONWAY BEAVER COUNTY, PENNSYLVANIA

Prepared By
Conway Borough Planning Commission

Technical Assistance

Provided By



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CONWAY BOROUGH
ZONING ORDINANCE

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ARTICLE I
AUTHORITY AND PURPOSE

Section 100 GRANT OF POWER

Pursuant to the Authority contained in Act 247 (P.L. 805, No. 247 of 1968, as amended, known as the "Pennsylvania Municipalities Planning Code," which Act became effective on January 1, 1969, and in accordance with the conditions and procedures set forth in said Act 247, as amended, the Borough Council of the Borough of Conway, Beaver County, Pennsylvania, does hereby adopt, ordain, and enact this Ordinance.

Section 101 TITLE

This Ordinance shall be known and may be cited as "The Zoning Ordinance of Conway Borough."

Section 102 EFFECTIVE DATE

This Ordinance shall take effect on the _____ day of _____, 19____.

Section 103 PURPOSES

This Ordinance is enacted pursuant to a Comprehensive Plan and with consideration for the character of this municipality, its various parts, and the suitability of the various parts for particular uses and structures, for the following purposes:

- A. To promote, protect, and facilitate one (1) or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, civil defense, disaster evacuation, airports, and National defense facilities; and the provision of adequate light and air, police protection, vehicle parking and loading/unloading space, transportation, water, sewerage, schools, public grounds, and other public requirements, as well as:
- B. To prevent one (1) or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic, or other dangers, as well as
- C. To preserve prime agriculture and farmland considering topography, soil type and classification, and present use.

Section 104 USE OF PROPERTY

- A. No building, land area, or water body shall hereafter be used or occupied, and no building or part thereof shall be erected, altered, or relocated unless in conformance with the regulations herein specified for the Zoning District in which it is located.
- B. The permitted uses enumerated for each zoning district are deemed to be exclusive and no other uses shall hereafter be permitted.
- C. The permitted uses are as enumerated for each zoning district and further defined in Article III - Definitions of this Ordinance and further clarified through the Standard Industrial Classification Manual, 1972, as amended in the 1977 Supplement; U.S. Office of Management and Budget, U.S. Executive Office of the President.

ARTICLE II
STATEMENT OF COMMUNITY
DEVELOPMENT OBJECTIVES

Section 200

PURPOSE

In addition to the foregoing purposes contained in Article I, it is the purpose and intent of this Ordinance to assist in achieving to the extent possible the Conway Borough Comprehensive Plan particularly in respect to the statements of Community Development Goal and Objectives contained herein.

Section 201

COMMUNITY DEVELOPMENT GOAL

The general, overall Community Development Goal of the Conway Borough Comprehensive Plan, and thus of this Ordinance, includes, but is not limited to, the following:
Conway Borough through its Comprehensive Plan aims to encourage and coordinate land use developments that will provide for the orderly growth of the Borough making full use of and enjoying the benefits of existing man-made and natural facilities within this Community; to encourage various land use types to relate harmoniously without disrupting the existing residential nature of the Borough; to preserve important, significant, or unique natural landscapes; and to protect the health, safety, morals, and general welfare of the public.

Section 202

COMMUNITY DEVELOPMENT OBJECTIVES

The Community Development Objectives of the Conway Borough Comprehensive Plan, and thus of this Ordinance, include, but are not limited to, the following:

- Objective 1 Provide for the conservation of unique, significant, and/or important natural areas.
- Objective 2 Maintain the predominant low to medium density residential character within the Borough.
- Objective 3 Provide for and encourage the use of new and innovative design techniques for flexibility that will allow better development.
- Objective 4 Direct future concentrations of development into areas suitable for such concentrations.
- Objective 5 Provide for land use development that will encourage a sound, balanced, and diversified economy without disruption of the residential nature of the Borough.
- Objective 6 Strive to achieve the productive use of land while maintaining the highway's traffic capacity and the appearance of Conway Borough's landscape.
- Objective 7 Encourage a circulation system that will move regional traffic through the Borough with a minimum disruption from local traffic and with a minimum effect on the local land use patterns.

- Objective 8 Encourage the improvement or upgrading of existing roadways to handle projected or planned growth.
- Objective 9 Provide for adequate governmental facilities and services.
- Objective 10 Provide appropriate distribution of governmental facilities and services
- Objective 11 Establish community facilities as amenities to preserve open space.

Section 203 STATEMENT OF CONSISTENCY

This Ordinance is enacted with consideration for the natural and man-made environment, the character of this community, the land use character and zoning of adjacent communities, its various parts, and the suitability of the various parts for particular uses and structures. Furthermore, this Ordinance is enacted in accordance with an overall program, the Conway Borough Comprehensive Plan.

ARTICLE III DEFINITIONS

Section 300 INTERPRETATION OF WORDS

For the purpose of this Ordinance, the terms and words herein shall be interpreted as follows unless otherwise expressly stated:

- A. Words used in the present tense shall include the future.
- B. The words "used" or "occupied" as applied to any land, water, or building shall include the words "intended," "arranged," or "designed" to be used or occupied.
- C. The word "building" shall include the word "structure" and shall be construed as if followed by the phrase "or part thereof."
- D. The word "lot" shall include a plot, parcel, or tract of land and/or water area.
- E. The word "street" shall include "highway," and "road."
- F. The words "shall" and "will" are always mandatory.
- G. The word "may" is permissive.
- H. Unless otherwise specified, all distances shall be measured horizontally.

Section 301 MEANING OF WORDS

Unless otherwise expressly stated, the following words or phrases shall, for the purpose of this Ordinance, have the meaning herein indicated:

- 1. ACCESS: A dust free improved way to permit vehicular access to a building, structure, land, or water area from the public street.
- 2. ACCESS DRIVE: The principal means of access into all parking areas with over fifty (50) parking spaces and the principal means of access to public and non-profit uses and to multi-family developments; and the principal means of access to loading and unloading areas.
- 3. ACCESSORY BUILDING: A subordinate building, the use of which is customarily incidental to that of the principal building; and which shall not have square footage of gross floor space in excess of forty (40) percent of the gross floor space of the principal building.
- 4. ACCESSORY USE: A use on the same lot with, and of a nature customarily incidental and subordinate to the principal use: and not occupying more than forty (40) percent of the gross floor area of any one floor in the principal structure or not more than forty(40) percent of the lot area. Only one floor of a principal structure shall be used for an accessory use.
- 5. ALTERATION: As applied to land, a building, or structure, means a change in the existing facilities.

6. ALTERATIONS, STRUCTURAL: Any change in the supporting members of a building or structure such as bearing walls, columns, beams, girders, or soleplates.
7. AMENDMENT: See "Zoning Amendment."
8. AUXILIARY BUILDING: An accessory building or structure incidental and subordinate to the principal building or structure.
9. BASEMENT: A story partly underground but having at least one-half ($\frac{1}{2}$) of its height above the average level of the adjoining ground. A basement shall be included for the purpose of measuring floor area if used for dwelling purposes, such as a game or recreation room, but excluded if used for a storage and utility area.
10. BILLBOARD: See "Sign, Billboard".
11. BOARDING HOUSE: A structure in which more than three (3) persons are housed or lodged for a fee or cost with or without meals. A rooming house or a furnished room house shall be deemed a boarding house. Such structures are a commercial service and are not classified as dwellings, nor a hospital or clinic.
12. BUILDING OR STRUCTURE: See "Structure".
13. BUILDING, FRONTLINE OF: The line of that face of the building nearest the front line of the lot. This face includes enclosed patios, porches, or entranceways; but does not include steps, stoops, entrancewalks or unenclosed porches and patios provided the unenclosed porch or patio does not exceed the building line more than 10 feet.
14. BUILDING, HEIGHT OF: The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridges for gable, hip, and gambrel roofs.
15. BUILDING LINE: A line located on the lot or parcel at a fixed distance from the street right-of-way line and interpreted as being the nearest point that a building may be constructed to the street right-of way. The building line shall limit the location of enclosed porches and patios to the face of this line; excluding steps, stoops, or entrancewalks plus unenclosed porches or patios provided the porch or patio does not exceed the building line by more than 10 feet.
16. BUILDING, MAIN OR PRINCIPAL: A building in which is conducted the principal use or uses of the lot on which it is located.

17. CARPORT: An area for the storage of one (1) or more vehicles which may be covered by a roof supported by columns or posts and which shall have no more than two (2) walls. A carport is an accessory building or extension to a principal building and shall not extend into the side yards or front yards.
18. CARTWAY: That portion of the street right-of-way surfaced for vehicular use. Width is determined from one (1) edge of driving surface to the other edge of driving surface and shall not include the storm water gutter or face of curb.
19. CELLAR: A story partly underground having more than one-half ($\frac{1}{2}$) of its clear height below the average level of adjoining ground. A cellar shall not be used to calculate net floor area if used exclusively for storage and utilities.
20. CLEAR SIGHT TRIANGLE INTERSECTION OF ACCESS DRIVE OR DRIVEWAY WITH STREET: The triangular area formed by an intersecting street center line with the access drive or driveway center line and a line interconnecting points established on each center line, twenty (20) feet from their point of intersection. This entire area is to remain clear of obstructions to sight above a plane established at three and one half ($3\frac{1}{2}$) feet in elevation and below a height of ten (10) feet as measured from grade level at the intersection of the street center line. Excluded from this definition and Ordinance is the area (clear sight triangle area) adjacent to a driveway for a single family detached residential dwelling.
21. CLEAR-SIGHT TRIANGLE; STREET INTERSECTION: The triangular area formed by two (2) intersecting street center lines and a line interconnecting points established on each center line, fifty (50) feet from their point of intersection. This entire area is to remain clear of obstructions to sight above a plane established three and one-half ($3\frac{1}{2}$) feet and below a height of ten (10) feet as measured from grade level at the street center lines.
22. CLINIC: An establishment with outpatient care for patients who are ambulatory including diagnostic health services, general medical or psychiatric treatment and surgical services.
23. COLLECTOR STREET OR ROAD: See "Street".
24. COMMON OPEN SPACE: A parcel or parcels of land or an area of water suitable for recreational purposes or a combination of such land and water within a development site designed and intended for the use or enjoyment of residents or occupants of the development maintained and owned jointly or commonly by the residents or occupants of the development, not including streets,

- off-street parking areas, and areas set aside for public facilities. Common open space shall be substantially free of structures, but may contain such improvements as are in the development plan as finally approved and as are appropriate for the recreation of residents.
25. **COMMUNITY/NEIGHBORHOOD CENTER:** A structure whose use is limited to the nonprofit recreational pursuits of the community or neighborhood in which it is located.
 26. **CONDITIONAL USE:** A use which is not appropriate to a particular Zoning District as a whole, but which may be suitable in certain locations within the District only when specific conditions and factors are prescribed for such cases.
 27. **DAY CARE CENTER:** A facility, other than a residential dwelling unit, where child care and educational instructions are provided for 7 or more children under the age of 16 or adults over the age of 62 who are not relatives of the operator, at any one time for part of a 24 hour day, operated for profit, and which is licensed by the Pennsylvania Department of Welfare as a Day Care Center.
 28. **DENSITY:** A measure of the number of dwelling units which occupy, or may occupy, an area of land.
 29. **DENSITY, GROSS RESIDENTIAL (ALSO GROSS DENSITY):** The maximum permitted number of dwelling units in relation to total development acreage actually in use or proposed to be used. This area of land shall exclude public rights-of-ways whether within or adjacent but shall include parking areas and access lanes, sidewalks, parks, playgrounds, common open spaces. See "Lot," and "Development Area".
 30. **DEVELOPMENT:** Any man-made change to improved or unimproved lands or water area, including but not limited to buildings, structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.
 31. **DEVELOPMENT AREA:** The total land area of a horizontal plane measured at grade and bounded by the front, sides, and rear property lines, exclusive of public streets but inclusive of all other areas. See "Gross Residential Density" and "Lot."
 32. **DISTRICT OR ZONING DISTRICT:** See "Zoning District."
 33. **DRIVEWAYS:** The principal means of access to a single-family detached residential dwelling and to parking areas of one (1) to fifty (50) parking spaces.
 34. **DUMP:** A lot or land area or part thereof in excess of one hundred (100) square feet that is used primarily for the disposal; by abandonment, dumping, burial, burning, storage, or other means, and for whatever purpose; for garbage, trash, refuse, junk, discarded machinery, vehicles, or part thereof, or waste material of any kind being organic or nonorganic. Said dump shall be subject to the requirements of this Ordinance for junkyards, organic and nonorganic waste and disposal sites.

includes separate kitchen and bathroom facilities and separate entrance for each unit. The word "dwelling" shall not include hotels, motels, boarding houses, nursing homes, rooming house, tourist home, or similar uses for group residence.

36. DWELLING TYPE:

- a. SINGLE-FAMILY DETACHED DWELLING: One (1) dwelling unit accommodating a single family, having two (2) side yards, and permanently constructed or affixed to a foundation.
-- A single-family detached dwelling may be an on-site constructed structure or may be a factory fabricated structure, consisting of a minimum of two (2) separate modular units permanently combined on-site and permanently affixed to a foundation to form a single-family detached dwelling.
- b. TOWNHOUSE OR SINGLE-FAMILY ATTACHED DWELLING: A series of individual dwelling units each accommodating one (1) family which are attached side by side through the use of adjoining walls. Adjoining walls shall extend through the attic to the roof. The dwelling units shall be permanently constructed and affixed to a foundation. No more than eight dwelling units shall be attached in a series. Each series to be separated by a twenty (20) foot sideyard.
- c. SINGLE-FAMILY SEMI-DETACHED DWELLING: Two (2) dwelling units each accommodating one (1) family which are attached side by side through the use of adjoining walls and having one (1) side yard adjacent to each dwelling unit. Adjoining walls shall extend through the attic to the roof. The dwelling and its units shall be permanently constructed or affixed to a foundation.
- d. TWO-FAMILY DETACHED DWELLING: Two (2) dwelling units each accommodating one (1) family which are located one (1) over the other and having two (2) side yards. The dwelling and its units shall be permanently constructed or affixed to a foundation.
- e. MULTI-FAMILY DWELLING: Any building or structure having three (3) or more dwelling units, each dwelling unit having a separate entrance. The dwelling shall be permanently constructed or affixed to a foundation. Common walls are not permitted between dwelling units.
- f. MOBILE HOME: A transportable factory fabricated structure designed as a dwelling unit built to be towed on its own chassis and which may be temporarily or permanently affixed to the land or a foundation used for non-transient residential purposes and shall be connected to the same or similar utilities (i.e., public water, public sanitary sewer, electrical, telephone, natural gas) as immobile housing. The mobile home may contain parts that collapse, fold, telescope, or otherwise permit continued mobility; however, these characteristics shall not categorize it as a sectional or modular home or a single-family detached dwelling.

37. DWELLING UNIT: Any structure or portion thereof which is designed and used exclusively for the residential purposes of one (1) family and includes a minimum of three (3) habitable rooms and a bathroom, has separate and private cooking and sanitary facilities, and has a separate entrance from the exterior. A Studio Apartment unit shall be a dwelling unit in all respects except that said unit may contain a minimum of two (2) habitable rooms and a bathroom, has separate and private cooking and sanitary facilities, and has a separate entrance from the exterior.
38. EARTH SHELTERED DWELLING: A dwelling unit constructed beneath the exterior surface grade; having a minimum one (1) side of the dwelling unit with its floor(s) at the level of the exterior grade and being the main entrance to the dwelling; and having one (1) window per room in at least fifty (50) percent of the rooms in the dwelling unit. Each window area shall be a minimum of ten (10) percent of the floor area of the room within which said window is located. Habitable rooms without windows shall have approved ventilation. All windows or glazed areas shall be openable.
39. ERECTED: Includes built, constructed, reconstructed, moved upon, or any physical operations on the land required for building. Excavation, filling, drainage, grading, and the like shall be considered part of the erection.
40. ESSENTIAL PUBLIC SERVICE INSTALLATIONS: The erection, construction, alteration, or maintenance by public utilities, cable television, or governmental agencies or authorities of underground or overhead water, sanitary, or storm sewers, gas, electrical, telephone transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, traffic signals, hydrants, and similar equipment and accessories in connection therewith and where reasonably necessary for the furnishing of adequate service to buildings and structures.
41. FAMILY: Any number of individuals living and cooking together as a single household unit, as distinguished from a group occupying a boarding house or group residential service or group care service.

42. FLOOD PLAIN, FLOOD HAZARD AREA, FLOOD-PRONE AREA: A land area adjoining a river, stream, water body, or water course which is likely to be flooded as established by the Federal Emergency Management Agency.
43. FLOOR AREA, NET: The area used or accessible to the public as employees, customers, patrons or clients or the living space of a residential dwelling unit. Net floor area may exclude areas used exclusively for storage or housing of mechanical equipment.
44. FLOOR SPACE, GROSS (ALSO GROSS FLOOR AREA): The sum of the gross horizontal areas of the several floors of a building and its associated uses and buildings on the same lot including the area of porches, patios, and/or terraces devoted to the use whether enclosed or unenclosed. All dimensions shall be measured between the exterior faces of walls.
45. FRONT YARD: See "Yard, Front."
46. GARAGE, PRIVATE: An enclosed and covered space for the use of the occupants of the premises for the storage of one (1) or more motor vehicles, provided that no business, occupation, or service is conducted for profit therein nor space therein, for more than one (1) car, is leased to a nonresident of the premises.
47. GARAGE, PUBLIC: A building or structure where motor vehicles can be temporarily parked for a fee.
48. GAS STATION: Any premises used for supplying gasoline, oil, minor accessories, and service for automobiles at retail, direct to the motorist consumer, including the making of minor repairs, but not including major repairs: such as spray painting; body, fender, clutch, transmission, differential, axle, spring, and frame repairs; major overhauling of engine; repairs of radiator requiring removal thereof; complete recapping retreading of tires.
49. GOVERNING BODY: Borough Council, Borough of Conway, Beaver County, Pennsylvania.
50. GRADE, ESTABLISHING: The elevation of the center line of the streets as officially established by the Borough.
51. GRADE, FINISHED: The completed surfaces of lots, walks, streets, and roads brought to grades as shown on official plans or designs relating thereto.
52. GROUP CARE SERVICE: An establishment that provides room and board, plus residential supervision and limited rehabilitative and social services to the residents. Medical, health, training, education or social services offices shall not be included unless within a commercial zoning district.

53. GROUP RESIDENTIAL SERVICE: An establishment that provides room and board to residents who are persons with some limit on ability for self care. Health care by health professionals or rehabilitative and social services shall not be provided within the establishment. The residential service shall be provided in a family environment and only to persons who are children under 18 years of age; or persons of any age who are physically handicapped or with developmental disabilities such as epilepsy and cerebral palsy; or elderly persons, 62 or more years of age, who are in need of supervision and non-medical residential care. The group residential service shall not include persons released from or under jurisdiction of a governmental bureau of corrections.
54. HOME GARDENING: The accessory use of cultivating herbs, fruits, flowers, or vegetables on a piece of ground adjoining the dwelling, excluding the keeping of animals and permitting the sale of produce grown on the premises.
55. HOME OCCUPATION: An accessory use customarily conducted entirely within a dwelling unit and carried on by the inhabitants residing therein, providing that the use conforms to the requirements of this Ordinance.
56. HOSPITAL: An establishment with inpatient care for diagnostic health services, extensive medical or psychiatric treatment and surgical services.
57. HOTEL, MOTEL: A building containing rooms which are used, rented, or hired out to be occupied for sleeping purposes by guests.
58. HOUSEHOLD PET: A domesticated animal that is normally or can generally be kept within the immediate living quarters of a residential structure. Any member of the swine, sheep, poultry, bovine, or quadrupeds family of equidae, elephants, moose, deer, or reptiles does not constitute a household pet under any provision in this Ordinance.
59. ILLUMINATION: DIFFUSED LIGHT: Any light which travels through a shield or material other than the bulb or tubing necessary to enclose the light source, which shield or which material has the effect of dispersing the light before it strikes the eye of the viewer.
60. ILLUMINATION: DIRECT LIGHT: Any light which travels directly from its source to the viewer's eye. Includes flood lighting.
61. ILLUMINATION: INDIRECT OR REFLECTED LIGHT: Any light which proceeds from its source to an intermediate object before being seen by the viewer (i.e. reflected off a wall surface).
62. INDUSTRIAL OR MANUFACTURING: The compounding, assembling, processing, recycling, salvaging, or treatment of materials into another product.
63. INTERIOR LOT LINE: See "Lot Line, Interior."

64. **JOB TRAINING AND VOCATIONAL REHABILITATION SERVICES:** An establishment providing rehabilitation training, habilitation services or job counseling and related services.
65. **JUNK:** Any worn, cast-off, or discarded article or material which is ready for destruction or which has been collected or stored for sale, resale, salvage, or conversion to some other use. Any such second hand article or material shall not be considered junk if unaltered or unchanged, and without need of further reconditioning or disassembly it can be used for its original purpose as readily as when new.
66. **JUNKYARD:** The use of more than one hundred (100) square feet of area of any lot for more than seven (7) continuing days for the storage, keeping, or abandonment of junk, including scrap material from the dismantling, demolition, or abandonment of automobiles, or other vehicles or machinery or parts thereof. A "junkyard" shall include an automobile graveyard or motor vehicle graveyard. A junkyard is subject to the requirements of this Ordinance. See Section 517.
67. **KENNEL:** The keeping of four (4) or more household pets that are more than six (6) months old. A kennel is not a home occupation. A kennel is not an accessory use to a residential dwelling.
68. **LANDOWNER:** A legal owner or owners of land within the Borough; including the holder of an option or contract to purchase, a lessee if he is authorized under the lease to exercise the rights of the landowner, or other persons having a legally recognized proprietary interest in land.
69. **LIGHTING:** See "Illumination."
70. **LINE, BUILDING:** See "Building Line."
71. **LINE, STREET:** The dividing line between the street and the lot, also known as the right-of-way line.
72. **LOADING/UNLOADING FACILITIES:** The total composite of all off-street structures and facilities for a loading/unloading area to include but not limited to the loading/unloading space(s), docking approach, access drive(s), and all related accessory facilities.
73. **LOADING AND UNLOADING SPACE:** A space not less than twelve (12) feet wide and fifty-five (55) feet deep with an overhead clearance of fourteen (14) feet six (6) inches plus an additional thirty (30) feet in depth for a docking approach. This space may be inside, enclosed, or outside of a structure and shall be used exclusively for the temporary standing of a motorized vehicle while loading or unloading merchandise or materials. This space shall be located off or beyond the public right-of-way and shall have direct access to a public street without the use of parking aisles. This space shall be on the same lot with a use or structure of which the loading/unloading space is being provided.
74. **LOCAL STREET:** See "Streets."

75. LOT: Land and/or water area occupied or to be occupied by a building and its accessory buildings, or by a dwelling and its accessory buildings, together with such open spaces as are required under the provisions of this Ordinance, having not less than the minimum area and width required by this Ordinance for a lot in the Zoning District which such is situated, and having its principal frontage on a public street or on such other means of access as may be determined in accordance with the provisions of this Ordinance to be adequate as a condition of the issuance of a Permit for use of such land or water area.
76. LOT AREA: The area of a horizontal plane measured at grade and bounded by the front, side, and rear lot lines as measured from the street right-of-way line and not including any part of an alley, public space or public street. Minimum lot area shall also be defined to include minimum parcel or tract area.
77. LOT DEPTH: The average horizontal distance between the front and rear lot lines.
78. LOT LINES: The lines bounding a lot.
79. LOT LINE, EXTERIOR: Any property line that divides said lot from a public right-of-way.
80. LOT LINE, INTERIOR: Any property line that divides said lot from another lot. Said lot line may be a side or rear lot line.
81. LOT WIDTH: The horizontal distance across the lot between the side lot lines. In the case of an irregularly shaped lot, the minimum required lot width shall be measured at the building line. Minimum lot width shall also be defined to include minimum parcel or tract width.
82. MAXIMUM LOT COVERAGE: The greatest percent of total lot area permitted by this Ordinance to be covered or to contain buildings and structures.
83. MOBILE HOME: See "Dwelling Type."
84. MOBILE HOME PARK: A parcel of land which has been planned and/or improved for the placement of two (2) or more mobile homes for nontransient use.
85. MANUFACTURING: See "Industrial."
86. NONCONFORMING STRUCTURE: A structure or a part of a structure which lawfully existed prior to the enactment of this Ordinance or its amendment(s) but which does not comply with the regulations of this Ordinance or its amendment(s). See also "Use, Unlawful."
87. NONCONFORMING USE: A use, whether of land, water body, or structure which was lawfully in existence prior to the enactment of this Ordinance or its amendment(s) but which does not comply with the regulations of this Ordinance or its amendment(s).

88. NURSING AND PERSONAL HEALTH CARE FACILITIES: An establishment engaged in providing inpatient nursing and health related personal care with at least on shift of licensed or registered nurse(s) excluding hospital services and excluding day-to-day personal care which is not health care by licensed or registered nurses.
89. OFFICIAL ZONING MAP: See "Zoning Map, Official."
90. OFFICIALLY RECEIVED APPLICATION: An application that has been submitted along with the required exhibits, plans, and fee; that has been reviewed by the appropriate official for completeness; and that has been declared by said official as a completed application and therefore officially received for review.
91. OFF-LOT/OFF-SITE SEWAGE TREATMENT: A sanitary sewage collection system in which sewage is carried from individual lot or dwelling unit(s) by a system of pipes to a central treatment and disposal plant which may be publicly or privately owned and operated and which has been approved by the governing body.
92. OFF-LOT/OFF-SITE WATER SERVICE: A potable water distribution system in which water is carried to individual lots or dwelling unit(s) by a system of pipes from a central water source located beyond the limits of the lot being served which may be publicly or privately owned and operated and which has been approved by the governing body.
93. ON-LOT SEWER TREATMENT: A single system of piping, tanks, or other facilities serving only a single lot and disposing of sanitary sewage in whole or in part into the soil on the lot.
94. ON-LOT WATER SERVICE: A single system of piping, tanks, or other facilities serving only a single lot and obtaining the water either in whole or in part from a primary source located within the limits of the lot being served.
95. OPEN SPACE: An unoccupied space open to the sky on the same lot with the building. This unoccupied space shall contain no buildings or structures.
96. ORGANIC AND/OR NONORGANIC WASTE AND DISPOSAL AREAS: Land areas in excess of one hundred (100) square feet for the storage or disposal of organic and nonorganic materials and subject to the requirements of this Ordinance.
97. OUT PARCEL: A lot, tract, or land parcel within an area of development, but not presently planned or proposed for development. An application for a permit may exclude an area or out parcel and said area or out parcel will not be reviewed unless said area or out parcel will affect the overall development plan. If ever the out parcel is planned or proposed for development, a separate application for a permit shall be processed.

98. PARKING FACILITIES: The total composite of all off-street structures and facilities for a parking area to include but not limited to parking space(s), parking aisles, stand-by/stacking lanes, driveways, access drive(s), and all related accessory facilities.
99. PARKING SPACE: A space not less than nine (9) feet wide and eighteen (18) feet long, whether inside or outside of a structure, used exclusively for the temporary standing of a motorized vehicle. The parking space shall be located off or beyond the public right-of-way.
100. PATIO/DECK: An uncovered outdoor living area, without roof and open to the sky, in excess of twenty-four (24) square feet in area projecting from the front, side, or rear walls of a building.
101. PLANTING STRIP: A landscape area attractively maintained and clear of foreign debris. The type and variety of landscaping material shall be approved by the Borough.
102. PLAT: A map, plan, or layout of a subdivision indicating the location and boundaries of individual properties used for recording purposes.
103. PORCH: A roofed over structure projecting from the front, side, or rear wall of a building.
104. PREMISES: Any lot, parcel, or tract of land or body of water and any building constructed thereon.
105. PRINCIPAL USE: The major dominant use of the lot on which it is located. Principal uses permitted shall be as defined within this Ordinance and further clarified by the SIC Classification Manual.
106. PUBLIC HEARING: A meeting open to the general public held pursuant to proper "public notice."
107. PUBLIC LANDS: Lands owned by the Borough, County, State, or Federal Government, their Agencies or Authorities.
108. PUBLIC NOTICE: Notice published one each week for two (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 be not more than thirty (30) days or less than fourteen (14) days from the date of the hearing.

109. PUBLIC RIGHT-OF-WAY: Land reserved by way of public ownership or dedication for use as a road, street, alley, crosswalk, pedestrian way, or other public purpose.
110. PUBLIC STREET: See "Street."
111. PUBLIC USES: Includes only governmentally owned and operated uses.
112. REFUSE AND WASTE COLLECTION AREAS: Visually screened areas for the collection of organic and nonorganic refuse and wastes not to exceed one hundred (100) square feet in area and not used for the storage or disposal of organic or nonorganic refuse, waste, or scrap materials beyond seven (7) days.
113. RETAIL USES: The selling of commodities to households or ultimate consumers.
114. ROADSIDE STAND: A use which may include a structure or building for the purpose of the sale of agricultural produce which has been raised on the premises occupied by the stand by the Operator of the stand. Said roadside stand shall not be the principal use of the property.
115. SANITARY LANDFILL: Land areas for the disposal of organic and nonorganic materials and subject to the requirements of this Ordinance.
116. SCHOOL: A public, or sectarian establishment providing formal academic education at the kindergarden, elementary, secondary, junior college, college or university levels.
117. SCREEN PLANTING: A vegetative evergreen material of sufficient height and density to buffer the view of the occupants of an adjoining use from the structures and uses on the premises on which the screen planting is located. See also "Visual Screen."
118. SERVICE STATION: See "Gas Station."
119. SERVICES, ESSENTIAL: See "Essential Public Service Installation."
120. SIC CLASSIFICATION: Uses, establishments, or economic activities defined and described within the Standard Industrial Classification Manual, 1972, and as amended in the 1977 supplement; U.S. Office of Management and Budget, U.S. Executive Office of the President.
121. SIGN: Any writing (including letter, word, or numeral); pictorial representation (including illustration or decoration); emblem (including device, symbol, logo, or trademark but not including symbol of any religious organization or insignia of any governmental agency); flag (including banner or pennant but not including flag, badge, or insignia of any governmental agency); or other figure of similar character which: is a structure of any part thereof, or is attached to, painted on, or in any other manner represented on a building or other structure; is used to announce, direct attention to, or advertise; and is visible from outside a building. Customary displays of merchandise or objects and materials related to the principal use, placed behind windows and not attached thereto, are not signs or parts of signs.

122. SIGN: ARCHED: Any sign so designed that the face, or that area displaying the written or pictorial information, is of a curved shape which extends above a driveway or private road and which is attached to permanent supports at both extremities.
123. SIGN: BANNER: A temporary sign constructed of cloth, canvas, or similar fabric materials, and which is attached at both extremities to poles, standards, or other permanent supports.
124. SIGN: BILLBOARD: Any sign which relates to any business product, service, event, person or place and other pictorial or graphic information which is not directly related to the principal use of the land on which sign is located.
125. SIGN: BUSINESS IDENTIFICATION: Any sign which directs attention to: a business, profession, or industry located upon premises where such sign is displayed; a type of product sold, manufactured, or assembled upon the premises; and a service or entertainment offered on said premises.
126. SIGN: FACE: The entire area upon which pictorial, graphic or written material or information is placed for viewing in a single direction.
127. SIGN: FLASHING: Any illuminated sign or device in which the artificial light is not maintained stationary and/or constant in intensity and color at all times.
128. SIGN: GROSS SURFACE AREA: The entire area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem, or any figure or similar character together with any frame or other material or color forming an integral part of the display or used to differentiate sign from the background against which it is placed; excluding necessary supports or uprights upon which such sign is placed. For signs utilizing individual letters or figures or characters mounted directly on the wall or face of a structure, the gross surface area shall be the entire area within a single continuous perimeter enclosing the extreme limits of this sign. Where any sign has two (2) or more faces, the combined area of all faces shall be used in determining the total gross surface area permitted.
129. SIGN: IDENTIFICATION: Any sign used to identify only the name or use of a public or non-profit facility occupying the premises upon which such sign is displayed.
130. SIGN: LIGHTED: A sign where the illumination is diffused or indirect. See "Illumination."

131. SIGN: MOVING: Any sign or any part thereof located on said sign which oscillates, rotates, or moves.
132. SIGN: NAMEPLATE: Any sign used to identify only the name of the individual(s) occupying the premises upon which such sign is located, and the street number of the occupant(s).
133. SIGN: OVERHEAD: Any sign which projects beyond the building face and uses the building wall and/or roof as its main source of support and which has two (2) faces visible from outside the building.
134. SIGN: PERMANENT: Any sign which is constructed or erected with a fixed and unchanging location either on the ground or attached to a building or other supporting structure.
135. SIGN: PORTABLE: Any sign that is not permanently affixed to a building, structure, or the ground and which is designed and constructed so that it may be moved from one location to another.
136. SIGN: REAL ESTATE: Any sign pertaining only to the rental or sale of the property upon which said sign is located.
137. SIGN: SELF-SUPPORTING: Any sign mounted on its own self-supporting structure and constructed on a permanent base.
138. SIGN: TEMPORARY: Any informational or advertising sign, banner, or other display device constructed of cloth, canvas, wood, or other temporary material, with or without a structural frame, and intended for a limited period of display as further specified by the terms of this Ordinance.
139. SIGN: WALL-MOUNTED: Any sign mounted, attached, or painted on a building having only one face visible from outside the building.
140. SOCIAL SERVICES: An establishment providing one or more social services for an individual or a family limited to counseling, referral, temporary or disaster relief or welfare service.
141. SPECIAL EXCEPTION: Uses and buildings permitted upon allowance by the Zoning Hearing Board pursuant to the express standards and criteria of this Ordinance.
142. STABLE: The keeping of one (1) or more animals other than three (3) household pets within a roofed enclosure. A stable is not a home occupation. A stable is not an accessory use to a residential dwelling unless specifically permitted. A stable may be an agricultural use.
143. STOOP: A covered or uncovered area at a front, side, or rear door not exceeding twenty-four (24) square feet in area.
144. STREET: A public way which affords means of access in abutting properties. A street shall also include a road.

145. **STREET, ARTERIAL:** Those public ways, public streets, public rights-of-ways identified on the Comprehensive Plan Map as Arterial Streets.
146. **STREET, COLLECTOR:** Those public ways, public streets or roads, public rights-of-ways identified on the Comprehensive Plan Map as Collector Streets.
147. **STREET, LOCAL:** Those public ways, streets, and public rights-of-way identified on the Comprehensive Plan Map as Local Streets.
148. **STRUCTURE:** Something constructed or erected with a fixed or permanent location on the ground being a combination of materials that form a construction that is safe and stable. The term structure shall also include a structure that is in the course of construction, alteration, or repair, but does not include building materials or supplies unless such materials or supplies are within an enclosed building. The term structure shall not include a paved parking area of a lot unless such area is covered by a roof or canopy nor shall a structure include a paved driveway or sidewalk.
149. **STUDIO APARTMENT UNIT:** See "Dwelling Unit."
150. **SUBDIVISION:** An area of land divided by the owners or agent, either by lots or by metes and bounds into lots or parcels two (2) or more in number, for the purpose of conveyance, transfer, improvement, or sale. The appurtenant roads, streets, and ways dedicated or intended to be dedicated to public uses, or the use of purchasers or owners of lots fronting thereon are included.
151. **SUBSTANTIAL IMPROVEMENT:** Means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the actual cash value of the structure either (a) before the improvement started, or (b) before the damage occurred if the structure has been damaged and is being restored. Substantial improvement is started when the first alteration of any structural part of the building commences.
152. **SUBSTANTIVE GROUNDS or QUESTION:** A challenge or appeal that shall raise an issue that this Ordinance or the Official Zoning Map is unconstitutional or that this Ordinance or the Official Zoning Map exceeds the powers (statutory authority) granted by the Pennsylvania Municipalities Planning Code, Act 247, as amended.
153. **TRADE, VOCATIONAL, BUSINESS AND COMMERCIAL SCHOOLS:** An establishment providing non academic training or educational courses for non-degree programs.
154. **TRAILER (CAMPING AND RECREATIONAL EQUIPMENT):** Shall include travel trailers, pickup coaches, motorized homes, and recreational equipment as follows:
- a. **TRAVEL TRAILER:** A portable structure built on a chassis, designed to be towed and used as a temporary dwelling for travel, recreational, and vacation purposes, and permanently identified as a travel trailer by the manufacturer of the trailer.

- b. **PICKUP COACH:** A structure designed primarily to be mounted on a pickup or other truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational, and vacation purposes.
 - c. **MOTORIZED HOME OR RECREATION VEHICLE:** A portable temporary dwelling designed and constructed as an integral part of a self-propelled vehicle.
 - d. **BOAT:** A vessel designed to travel on water.
 - e. **BOAT TRAILER:** A trailer designed to haul a boat (as defined above) over land areas.
155. **TRAILER CAMP:** A tract of land: (a) where two (2) or more trailers are parked: or (b) which is used or held out for the purpose of supplying to the public a parking space for two (2) or more trailers.
156. **USE:** The specific purpose for which land, water, or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.
157. **USE, MIXED:** The occupancy of a building or of a lot for more than one (1) use.
158. **USE, NONCONFORMING:** See "Nonconforming Use."
159. **USE, UNLAWFUL (ALSO ILLEGAL USE):** A use whether of land, water body, or structure which was not in existence prior to the enactment of the Zoning Ordinance or its amendment(s) and does not comply with the regulations of the Zoning Ordinance or its amendment(s).
160. **UTILITY AREA:** The interior area within a dwelling unit used for the housing of the central heating facility, hot water heater, electrical service panel, and household maintenance storage and work area.
161. **VARIANCE:** The permission granted by the Zoning Hearing Board for an adjustment to some rule or regulation of this Ordinance which if strictly adhered to would result in an unnecessary hardship where such hardship is due to unique physical circumstances or conditions and where the permission granted would not be contrary to the public intent and would maintain the spirit and original intent of this Ordinance. A Variance applies only to that particular piece of property for which it is granted.
162. **VISUAL SCREEN:** A masonry wall, solid board fence (finished side toward adjacent use), landscaped earthen embankment or a screen planting used to buffer the view of the occupants of an adjoining use from the structures and uses on the premises on which the visual screen is located. See also "Screen Planting."

163. WATER BODY/WATER: An area of water including, but not limited to, ponds, lakes, reservoirs, rivers, streams, and creeks.
164. WHOLESALE USES: The storage and selling of commodities to retailers or jobbers rather than to households or ultimate consumers.
164. YARD: A required unoccupied space open to the sky, on the same lot with a building or structure.
166. YARD, FRONT: An open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the street right-of-way line and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the building and the street right-of-way line. An enclosed porch, shall be considered as part of the main building and shall not project into a required front yard.
167. YARD, REAR: An open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the permitted building area.
168. YARD, SIDE: An open unoccupied space on the same lot with the building situated between the permitted building area and side line of the lot and extending from the front yard to the rear yard. Any yard not a rear yard or a front yard shall be deemed to be a side line. A structure or building shall not extend into the required side yards unless specifically permitted by this Ordinance.
169. ZONING AMENDMENT: A change in any Zoning District which includes revisions to this Ordinance Text and/or the Official Zoning Map.
170. ZONING DISTRICT: An area illustrated on the Official Zoning Map to define and delineate the location, extent, use, and nature of permitted activities regulated by this Ordinance.
171. ZONING MAP, OFFICIAL: The Official Map of the Borough of Conway delineating the Zoning Districts.

ARTICLE IV
DESIGNATION OF ZONING DISTRICTS

Section 400 ESTABLISHMENT OF ZONING DISTRICTS

The following Zoning Districts are hereby established in the Borough of Conway.

- R-1 Restricted Residential
- R-2 General Residential
- R-3 Urban Residential
- C-1 Commercial
- C-2 Neighborhood Commercial
- I-P Industrial Park

Section 401 OFFICIAL ZONING MAP

The boundaries of the Zoning Districts hereby established are shown on the Official Zoning Map bearing the date of adoption of this Ordinance. This Map and all the notations, references, and other data shown thereon are hereby incorporated by reference into this Ordinance and shall be as much a part of this Ordinance as if all were fully described herein.

Section 402 DISTRICT BOUNDARIES

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

- A. District boundary lines, unless otherwise indicated on the Map, follow or are parallel to the center line of streets and streams; and to lot or property lines as they exist on a recorded deed or plan of record in the Beaver County Recorder of Deeds Office at the time of the adoption of this Ordinance.
- B. In unsubdivided land or where a District boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by the use of the scale appearing on the Official Zoning Map.
- C. Where streets, streams, property lines, or other physical boundaries and delineations are not applicable, boundaries shall be determined by the scale shown on the Official Zoning Map.
- D. Where a District boundary is not fixed by dimensions and where it approximately follows lot lines, and where it does not scale more than ten (10) feet therefrom, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.

Section 403 INTERPRETATION OF DISTRICT BOUNDARIES

In circumstances not covered by Section 402, District Boundaries, the Zoning Hearing Board shall interpret the intent of the Official Zoning Map as to location of District boundaries.

ARTICLE V
SUPPLEMENTARY REGULATIONS

The other provisions of this Ordinance shall be subject further to such provisions, additions, or modifications as herein provided by the following regulations:

Section 500 INTERPRETATION OF THIS ORDINANCE

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of health, safety, morals, and the general welfare of the Borough and its citizens. It is not intended by this Ordinance to interfere with or abrogate or annul any rules or regulations previously adopted or permits previously issued by the Borough which are in conflict with any provisions of this Ordinance. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, building restrictions, or other agreements between parties. However, where this Ordinance imposes a greater restriction upon the use of the buildings or premises or upon the height of the building, or requires a larger open space than is imposed or required by such rules, regulations, or permits, or by easements, covenants, building restrictions, or agreements, the provisions of this Ordinance shall control.

Section 501 ONE PRINCIPAL USE AND EXCEPTIONS

Every use, building, and/or structure hereafter erected or exterior dimensions altered shall be situated so that in no case shall more than one (1) principal building, structure, or use be located on one (1) lot except as specifically noted below.

- A. ONE YARD PER PRINCIPAL RESIDENTIAL USE: No part of a yard or other open space required about any principal residential building or structure for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space similarly required for another principal residential building or structure except as specifically noted otherwise in this Ordinance for special development types.
- B. ADDITIONAL NONRESIDENTIAL USE PER LOT: Where a lot, parcel, or tract is for a nonresidential use, more than one (1) principal use, building, or structure may be located upon the lot, parcel, or tract, but only when such uses, buildings, or structures conform to all open space and yard requirements around the perimeter of the lot, parcel, or tract for the District in which the lot, parcel, or tract is located. A structure shall be a minimum of ten (10) feet from any other structure on the same lot or tract unless affixed by way of adjoining walls. In addition, the maximum lot coverage shall not be exceeded as specified for the Zoning District in which the proposed development, uses, buildings, or structures are to be located.
- C. ADDITIONAL DWELLING PER LOT: An individual lot or land parcel for one (1) single-family detached residential dwelling shall have, as a special exception, no more than one (1) additional single-family detached residential dwelling in addition to the principal dwelling provided:

1. Each dwelling shall be located to meet all minimum lot area, lot width, and yard dimension requirements for a single-family detached residential dwelling for the Zoning District within which said dwelling is to be located.
2. The additional single-family detached dwelling on the one (1) lot may be rented for a residential use and shall not be used for another income producing activity or business.
3. The front yard for each dwelling on one (1) lot shall abut by their full width on a publicly dedicated street or on a street that has met the Borough's standards for a public street. The front yard of one (1) dwelling shall not be to the rear of the other dwelling.
4. Individual and separate driveway access is required for each of the two (2) single-family detached dwellings on the one (1) lot. Each driveway shall be a minimum of twenty (20) feet wide.

Section 502 EXCEPTIONS TO YARD REQUIREMENTS

- A. All yards required to be provided under this Zoning Ordinance shall be open to the sky and unobstructed by any building or structure; however, the following exceptions shall be permitted within the required yards.
1. Fences as specified in Section 510.
 2. Signs as specified in Article VIII.
 3. Accessory buildings shall be permitted in the rear yard to the rear lot line; however, swimming pools shall be not less than three (3) feet from a rear lot line.
 4. Patios, decks and paved swimming pool area(s) shall be permitted in the rear yard when they are not less than three (3) feet from a side or rear lot line.
 5. Steps may project into the front yard; however, said projection shall not exceed twenty-four (24) square feet.
 6. Unenclosed porches or patios may project into the front yard provided they do not exceed the building line by more than ten (10) feet.
 7. Balconies may project from the principal building into the rear and side yard provided they do not project more than six (6) feet.
 8. Air conditioning units not exceeding twenty-four (24) square feet may project into the required yards.
 9. Open or lattice enclosed fire escapes, fireproof outside stairways or balconies opening upon fire towers and the ordinary projection of chimneys and flues may project into the side and rear yard if placed so as not to obstruct light or ventilation and where they do not project out more than three (3) feet.
 10. Sills, eaves, belt courses, cornices, and ornamental features provided they do not project out more than three (3) feet.
- B. The front yard/building line requirements shall be adjusted in the following cases:
1. Where the frontage on one (1) side of the street between two (2) intersecting streets is developed with buildings that have observed a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the building line so established by the nearest adjacent building(s).

2. Where the frontage on one (1) side of a street between two (2) intersecting streets is developed with buildings that have observed a building line less in depth than herein required, new buildings may be erected only as close to the street as the nearest adjacent building(s).
 3. A front yard/building line may be reduced to a ten (10) foot minimum as a variance by the Zoning Hearing Board if topographic conditions are such that a hardship may exist with respect to connection into the sanitary sewer main or construction of a driveway or access road.
- C. Where any main wall of a structure located on an irregularly shaped lot does not parallel the lot line which the wall faces, the yard or minimum distance to the lot line at every point shall be at least equal to the minimum dimension required for the yard or distance to the lot line.

Section 503 FLOOD HAZARDS

No building, structure, or use shall be located in any manner or built in any way as to constitute a flood hazard on a flood plain or in a flood prone area as established by the Federal Emergency Management Agency, the Pennsylvania Flood Plain Management Act, and Borough Ordinances established to comply with the Federal and State Regulations.

Section 504 HEIGHT MEASUREMENTS

Measurement of height shall be the vertical distance from the mean level of the ground at the front of the building to the point on the roof measured as follows:

- A. In case of flat roof structures - highest point.
- B. In case of mansard roof structures - deck line of roof.
- C. In case of gable or hip and gambrel roof - average height of roof between eaves and ridge.

Section 505 EXCEPTIONS TO HEIGHT REGULATIONS

- A. Special structures such as cooling towers, elevators, bulkheads, fire towers, tanks, water towers, and antennas which require a greater height than provided in the Zoning District may be erected to a greater height than permitted provided:
1. The structure shall not occupy more than twenty-five (25) percent of the lot area, shall not be placed in the front yard, plus the side or rear yard requirements for the lot in which the structure is erected shall be increased by one (1) foot for each foot of height over the maximum height permitted.
- B. The height limitations of this Zoning Ordinance shall not apply to flagpoles, church spires, or chimneys.

Section 506 STEEP SLOPED LOTS

Lots which contain a slope of 4:1 (four feet horizontal to one foot vertical) or steeper over an area or aggregate of areas comprising fifty (50) percent of the total lot area shall have a required minimum of twenty-five (25) percent increase in total lot area than is normally required by this Ordinance.

Section 507 CORNER LOTS/FRONT YARDS

Any lot which abuts on more than one (1) street shall provide the required front yard upon the principal street.

Section 508 OCCUPANCY OF ANY USE

Prior to the occupancy of any use on any lot such use shall have a safe potable water supply and an approved sanitary sewage disposal system subject to the requirements and approval of the Pennsylvania Department of Environmental Resources. If deemed necessary by the Borough's Municipal Authority, the developer may be required to construct a system of water mains and sewer mains and connect into the Borough's Water and Sanitary Sewer System if such facilities are available within a reasonable distance to the use and/or if there is potential for a public health hazard or as required by the rules and regulations of the Municipal Authority.

Section 509 VISUAL SCREENS

A visual screen, being a masonry wall, a solid board fence (finished side toward adjacent use), landscaped earthen embankment, or a landscaped planting of evergreens, shall be required at the side and rear lot line(s) of any nonresidential use when such uses adjoin a residential use or a R-1, R-2, and R-3 Zoning Districts. A visual screen may also be required of specific uses as further specified in the provisions of this Ordinance. The visual screen shall be a minimum of eight (8) feet in height unless a greater height is necessary to visually buffer a use from adjoining uses. The evergreen plantings shall be a minimum of three (3) feet thick. The visual screen shall be maintained in an attractive manner.

Section 510 FENCES

- A. Fences and hedges may be placed within the side, rear, and front yards.
- B. Height Restrictions - No fences shall be erected, altered, or placed, and no hedge or similar planting shall be allowed to grow so as to exceed a height of those listed below except those specifically noted in item C.
 - 1. Front yard - three (3) feet.
 - 2. Rear or Side Yard - eight (8) feet.
 - 3. No fence, hedge or similar planting shall violate the clear sight triangle restrictions.
- C. Exceptions to the fence height restrictions shall include fences used for security reasons, for permitted commercial and industrial uses, plus permitted recreational facilities.
- D. Fences with Finished Appearances - A fence adjacent to a public right-of-way which is designed with a finished appearance on one (1) side shall be oriented so that the finished side faces such right-of-way.
- E. Barbed Wire, Pointed and Electrically Charged Materials - No barbed wire, other sharp pointed material, electrically charged material, or similar material dangerous to the public health and safety shall be used in the construction of a fence unless said material is at least eight (8) feet above the ground level and within the I-P Zoning District.

Section 511 EARTH SHELTERED DWELLINGS

Earth sheltered dwellings shall be permitted for human occupancy in those Zoning Districts where residential uses are permitted subject to the following requirements.

- A. All construction plans/drawings shall contain the seal of a Pennsylvania Registered Architect and/or Pennsylvania Registered Engineer.
- B. All exposed faces of the structure, all flush skylights, or other flush appurtenances, and all chimneys or vents or other projections shall be secured or otherwise protected to prevent uncontrolled access from the public right-of-way or adjacent properties. Said barriers shall be approved by the Borough and maintained in good condition.
- C. Dwelling unit types shall conform to those permitted within the Zoning District in which the earth sheltered dwelling shall be constructed.
- D. Lot area or Gross Residential Density shall conform to those established by the Zoning District within which the earth sheltered dwelling shall be constructed.
- E. All exposed faces of an earth sheltered dwelling shall conform to the yard setback requirements established by the Zoning District within which the earth sheltered dwelling shall be constructed.
- F. A minimum of fifty (50) percent of the rooms within the dwelling unit shall each contain at least one (1) window subject to the following:
 - 1. Each window shall be so sized as to equal a minimum of ten (10) percent of the floor area of the room within which said window is located.
 - 2. All windows or glazed areas shall be openable.
- G. All habitable rooms within the dwelling unit without windows shall have Borough approved ventilation.
- H. There shall be a minimum of four hundred (400) square feet of outdoor living space outside (enclosed by two (2) or less exterior walls) for each dwelling unit subject to the following:
 - 1. Said outdoor living space shall be open to the sky.
 - 2. Said outdoor living space shall not exceed eight (8) percent slope.
 - 3. Said outdoor living space shall be directly accessible to the occupants of the dwelling unit and located no more than ten (10) feet from the dwelling unit.
 - 4. The minimum horizontal dimension of said outdoor living space shall be twenty (20) feet.

Section 512 COMMUNITY BUILDINGS, NEIGHBORHOOD CENTERS, SOCIAL HALLS, LODGES, FRATERNAL ORGANIZATIONS, AND CLUBS

Wherever specifically permitted for these uses all buildings or structures shall be a minimum of twenty-five (25) feet from side lot line and fifty (50) feet from a rear lot line. A visual screen shall be provided when such use adjoins a residential use or the R-1, R-2, and R-3 Zoning Districts.

Section 513 ESSENTIAL PUBLIC SERVICE INSTALLATIONS

Essential Public Services shall be permitted in all Zoning Districts subject to the following restrictions:

1. Essential Public Service Installations subject to the direction and control of the Pennsylvania Public Utilities Commission shall be excluded from further regulation of this Ordinance.
2. Any other Essential Public Service Installation shall be permitted in all Zoning Districts subject to restrictions recommended by the Planning Commission in regard to screening, yards, and height regulations.

Section 514 REFUSE AND WASTE COLLECTION AREAS

Refuse and waste collection areas appropriate to serve all uses are required; and such areas shall be visually screened from adjacent properties and the public way by an approved screen constructed of material similar to the principal structure on the property or by mature landscape material. Adequate provision shall be made for access to the refuse and waste collection area by disposal agency equipment. No person shall use any refuse and waste collection area unless such area complies with these provisions. The screening requirement shall not apply to a single-family detached residential dwelling.

Section 515 GENERAL STORAGE AND/OR DISPOSAL

No land area in excess of one hundred (100) square feet or any water body shall be used as a storage area or disposal site for any organic and/or nonorganic material within any Zoning District except where specifically permitted and in accordance with the regulations of Section 516.

Section 516 ORGANIC MATERIAL STORAGE AND DISPOSAL (SANITARY LANDFILLS), NONORGANIC MATERIAL STORAGE AND DISPOSAL, SCRAP AND WASTE MATERIAL STORAGE YARDS, JUNK YARDS AND SECOND HAND AUTOMOTIVE PARTS AND ACCESSORIES SALES

No land area on a lot or land parcel in excess of one hundred (100) square feet or any water body shall be used beyond seven (7) days as a storage area or disposal site, refuse and collection area, for any organic or nonorganic material within any Zoning District unless specifically permitted and in accordance with Pennsylvania Act 97 of 1980, known as the Solid Waste Management Act, and the Rules and Regulations of the Bureau of Solid Waste Management, Pennsylvania Department of Environmental Resources, and the following conditions shall also apply:

- A. The site is located a minimum of two hundred (200) feet from an adjoining residential structure or an R-1, R-2, or R-3 Zoning District, and a minimum of fifty (50) feet from any public road or right-of-way. Such set-back area shall be kept free of weed and scrub growth unless the adjoining property is wooded.
- B. The yard or storage area shall be completely enclosed with a visual screen. Access to the yard or storage area through this visual screen shall be controlled in such method as shall be approved by Borough Council.

- C. All material within the yard or storage area shall be arranged so as to permit access by firefighting equipment, to prevent the accumulation of water, and stored no more than six (6) feet in height unless enclosed within a structure or building.
- D. The yards and storage areas shall be maintained in such a manner as to cause no public or private nuisance, nor to cause any offensive or noxious sounds, vibrations, or odors, nor to cause the breeding or harboring of pests, rodents, or other vectors.
- E. No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by natural causes or forces; nor shall any substance which can contaminate a stream or water course or otherwise render such stream or water course undesirable as a source of water supply or recreation, or which will destroy aquatic life, be allowed to enter any stream or water course.
- F. All material or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible or otherwise be attractive to rodents or insects shall be stored outdoors only if enclosed in containers which are adequate to eliminate such hazards.
- G. The disposal of unwanted materials shall be controlled by the Borough's Ordinances in regard to burning, dumping, etc., as well as the controls of such disposal by the Pennsylvania Department of Environmental Resources.
- H. The site contains one (1) entrance and one (1) exit each less than thirty (30) feet in width.
- I. Off-street parking shall be provided within the site enclosure and shall be enclosed within the site's visual screen.

Section 517 HOUSEHOLD PETS

- A. No more than three (3) household pets shall be permitted for a dwelling unit.
- B. Structures or enclosures for household pets shall be a minimum of ten (10) feet from the side and rear lot lines.

Section 518 COMMERCIAL EQUIPMENT STORAGE

Commercial equipment including trucks, one (1) ton capacity or larger, tandems, tractor-trailers, tractors, or other commercial or construction and cargo-moving vehicles or equipment shall not be stored or parked overnight in the R-1, R-2, and R-3 Zoning Districts unless within the confines of an accessory structure clearly incidental to the principal structures on the same lot.

Section 519 CAMPING AND RECREATIONAL EQUIPMENT STORAGE

Trailers as defined within the terms of this Ordinance and including travel trailers, pickup coaches, motorized homes, and boat trailers may be parked subject to the following requirements:

- A. At no time shall parked or stored camping and recreation equipment be occupied or used for living, sleeping, or housekeeping purposes.

- B. Parking and storing of camping and recreational equipment shall be limited to the interior of automobile garages, other available on-lot accessory buildings, or to that portion of the lot beyond the public street right-of-way.

Section 520 HOME OCCUPATIONS

In addition to the other regulations within this Ordinance, home occupations where permitted shall comply with the following:

- A. Official residence shall be maintained by the occupant who may be the owner, a renter, or a lessee.
- B. This use is clearly incidental and secondary to the use of the dwelling for dwelling purposes.
- C. The exterior appearance of the dwelling unit is constructed and maintained as a residential use.
- D. No goods are publicly displayed on the exterior of the premises other than signs as provided for in this Ordinance.
- E. The use shall occupy not more than forty (40) percent of the total floor area on one floor of the principal dwelling or integral attached garage.
- F. The use shall only be within the principal structure or an integral attached garage.
- G. There shall be no employees employed on the premises of the home occupation.
- H. Off-street parking shall be provided for as required of this Ordinance.
- I. Stables and Kennels, Auto Body Shops, Day Care Centers, Group Care or Residential Service are not home occupations.

Section 521 PRIVATE SWIMMING POOLS

Private swimming pools are permitted as accessory uses to principal residential uses and principal commercial uses provided that they comply with the following conditions and requirements:

- A. The pool is intended, and is to be used solely for the enjoyment of the occupants using the principal use of the property on which it is located.
- B. The pool may be located only in the rear yard of the property on which it is an accessory use.
- C. The pool paved areas and accessory structures adjacent thereto shall not be located closer than three (3) feet to any property line of the property on which it is located.
- D. The swimming pool area or the entire property on which it is located shall be so walled or fenced or otherwise protected as to prevent uncontrolled access from the street or from adjacent properties. For an in the ground pool said barrier shall not be less than six (6) feet in height and maintained in good condition. All openings in the barrier shall be equipped with gates or doors which shall be locked when not in use. For an above ground pool the entrance to said pool shall be equipped with a gate or similar barrier to be locked when not in use.

Section 522 TEMPORARY USES

- A. A temporary principal use where permitted shall meet the following criteria:
 - 1. The site for the temporary use is a minimum of one hundred (100) feet from any residential dwelling.
 - 2. Off-street parking at a rate adequate for the patrons of the temporary use shall be provided.
 - 3. Safe access for police, fire, and other emergency vehicles can be obtained through and around the site.

- B. One of the following temporary principal uses (for a period of one (1) to four (4) weeks in one (1) calendar year) may be permitted if the above conditions are complied with:
 - 1. Selling of Christmas Trees or other seasonal items.
 - 2. Community or Neighborhood Fair.
 - 3. Mobile amusement.
 - 4. Art show, craft demonstration, or exhibit.
- C. A temporary accessory use (for a period not to exceed two days a week for a four month period in one (1) calendar year) limited to home garden sales, a roadside stand, or farmers market shall be permitted provided they meet the following criteria:
 - 1. All produce sold on the premises shall have been raised by the operator of the stand.
 - 2. The roadside stand or individual stalls in a Farmers Market shall not exceed two hundred (200) square feet in area and shall be permitted only in the C-1 or C-2 Zones.
 - 3. Off-street parking at a rate adequate for the patrons of the temporary use shall be provided.
- D. A temporary accessory use (for a period not to exceed twelve days in one (1) calendar year) limited to household yard or garage sale shall be permitted.

Section 523 BUS SHELTERS

- A. Public transit or school bus shelters may be erected and maintained in any district without regard to the lot, height and area requirements of this Ordinance, however subject to the following requirements:
 - 1. Bus shelters shall not be greater in size than six (6) feet by twelve (12) feet.
 - 2. Such bus shelters may not carry upon its exterior walls advertising signs.
 - 3. Such bus shelters may not be placed upon the public right-of-way unless approval is obtained from the governmental body responsible for said right-of-way.

ARTICLE VI
USES IN ZONING DISTRICTS

Section 600 USES ALLOWED

The uses allowed in each zoning district are set forth in the following schedule. The uses enumerated for each zoning district are hereby declared and shall be deemed to be exclusive, and no other use shall hereafter be permitted. The use shall be as defined within the definition section of this Ordinance and further clarified within the Standard Industrial Classification Manual, U.S. Dept. of Commerce, Office of Federal Statistical Policy and Standards.

Section 601 R-1, RESTRICTED RESIDENTIAL

- A. The purpose of the R-1, Restricted Residential Zoning District is to establish a low density residential area which is compatible with the existing residential development of the area.
- B. Principal Permitted Use
1. Single family detached dwelling.
 2. Private garage or parking lot, used exclusively for automobile parking for the adjacent residential use.
 3. Churches or similar place of worship conducted within the interior of a building.
- C. Accessory Permitted Use
1. Private Garage or parking area complying with Article VII.
 2. Signs complying with Article VIII.
 3. Household pets.
 4. Home gardening.
 5. Other accessory uses customarily related and incidental to the principal use.
- D. Use Permitted by Special Exception
- Where the Zoning Hearing Board has held a public hearing, been assured that the standards and criteria governing the granting of a Special Exception as provided for in this Ordinance have been met within the purpose and intent of this Ordinance, and that no hazardous condition will result, a lot or parcel may be used and buildings and structures may be erected for one of the following principal uses:
1. School
 2. Governmental Use and Building
 3. Home Occupations complying with Section 520.
- * E. Use Permitted by Conditional Approval
- A parcel may be used and buildings or structures may be erected and used for the following uses in this Zoning District subject to the granting by Borough Council of a Conditional Use under the regulations and procedures of this Ordinance.

* 601(D)(4) Day Care Centers

BOROUGH OF CONWAY
ORDINANCE NO. 527

AN ORDINANCE OF THE BOROUGH OF CONWAY,
COUNTY OF BEAVER AND COMMONWEALTH
OF PENNSYLVANIA, AMENDING THE BOROUGH'S
ZONING ORDINANCE, ARTICLE VI(USES IN ZONING
DISTRICTS), SECTION 601 (R-1, RESTRICTED
RESIDENTIAL), SUBSECTION D (SPECIAL EXCEPTION),
TO INCLUDE DAY CARE CENTERS AND THE
DEFINITION OF SUCH.

WHEREAS, the Borough of Conway (hereinafter the "Borough") is a political
subdivision created under the laws of this Commonwealth of Pennsylvania; and

WHEREAS, the Borough has a significant number of constituents that require the
need of day care services for their children;

WHEREAS, the Borough's current Zoning Ordinance restricts residential
Daycare Centers, authorized by the Commonwealth of Pennsylvania, from operating in
the R-1 District;

WHEREAS, the Borough is desirous of expanding the area for daycares to
operate; and

THEREFORE, be it hereby ordained this 18TH day of March, 2009,
by majority vote of the Borough of Conway's Council, after proper advertisement, at its
regularly scheduled public meeting, to amend the Conway Borough Zoning Ordinance by
adding the following:

Section 601 (D)(4.) Day Care Centers. All criteria set forth for consideration as
part of a special exception hearing in Section 602 (6) may apply here.

Also, the Definition of "Day Care Center" shall be amended to exclude the following
language: "other than residential dwelling unit".

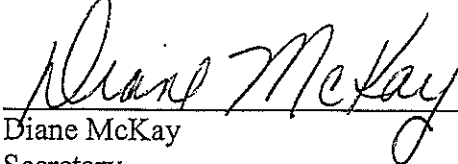
6-1A

ORDAINED AND ENACTED this 18th day of March,

2009.

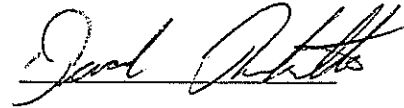
ATTEST

BOROUGH OF CONWAY


Diane McKay
Secretary


Greg Ritorio
President of Council

APPROVED and EXAMINED by the Mayor this date:



1. Townhouses or single family attached dwellings complying with the following requirements:
 - a) Minimum lot size for the development shall be $2\frac{1}{2}$ acres.
 - b) Minimum lot size for each dwelling unit shall be 2,000 square feet.
 - c) Minimum lot width for the development shall be 200 feet.
 - d) Minimum lot width for each dwelling unit shall be 20 feet.
 - e) Front yard requirement shall be 25 feet.
 - f) Rear yard requirement shall be 40 feet.
 - g) Side yard requirement around the perimeter of the development shall be 25 feet.
 - h) Maximum height for each structure shall be 35 feet.
 - i) Maximum lot coverage for the development shall be 35 percent.
 - j) Maximum dwelling units per acre shall not exceed 8 units per acre.
 - k) A visual screen shall be placed on the side and rear property lines of the development.
 - l) Off-street parking at a rate of two parking spaces per dwelling unit shall be within or integral with the dwelling unit or placed to the rear of the dwelling structure.
 - m) Common areas: their organization, development, maintenance, size, dimensions, and use shall be subject to the Borough review as well as the requirements of the Pennsylvania Municipalities Planning Code for common open space.
 - n) The grouping of townhouses or single-family dwellings attached side by side shall be a minimum of four dwelling units per structural grouping and a maximum of eight dwelling units per structural grouping. Each structural grouping shall be separated by a 20 foot side yard.
 - o) Off-site water service and sewage treatment shall be provided.

Section 602 R-2, GENERAL RESIDENTIAL

- A. The purpose of the R-2, General Residential Zoning District is to establish a medium density residential area compatible with the existing small lot; older, larger single-family detached structures and offering an opportunity for duplex development or conversion apartment adaptive reuse.
- B. Principal Permitted Use
 1. Single-family detached dwelling.
 2. Private garage or parking lot, used exclusively for automobile parking for the adjacent residential use.
 3. Churches or similar place of worship conducted within the interior of a building.

C. Accessory Permitted Use

1. Private Garage or parking area complying with Article VII.
2. Signs complying Article VIII.
3. Household pets.
4. Home gardening.
5. Other accessory uses customarily related and incidental to the principal use.

D. Use Permitted By Special Exception

Where the Zoning Hearing Board has held a public hearing, been assured that the standards and criteria governing the granting of a Special Exception as provided for in this Ordinance have been met within the purpose and intent of this Ordinance, and that no hazardous condition will result, a lot or parcel may be used and buildings and structures may be erected for one of the following principal uses:

1. School
2. Governmental Use and Building.
3. Professional Office.
4. Funeral Home.
5. Home Occupations complying with Section 520.
6. Day Care Center provided off-street parking shall be provided and placed behind the building line at a rate of 1 parking space for each employee plus one (1) parking space for every four (4) clients enrolled.
 - a) Sixty-five square feet of usable and accessible open space shall be provided for each client, patient, or occupant on the same lot as the use and at a minimum 25 percent of the lot shall be landscaped and developed as an open space/recreational area in less than 8 percent slope for the clients, patients, or occupants.
6. Semi-detached dwelling or two family detached dwelling (duplex) or conversion apartment limited to two (2) dwelling units complying with the following requirements:
 - a) Minimum lot size shall be 6,000 square feet.
 - b) Minimum lot width shall be 60 feet.
 - c) Minimum front yard shall be 25 feet.
 - d) Minimum side yard shall be 15 feet per side.
 - e) Minimum rear yard shall be 25 feet.
 - f) Maximum height shall be 35 feet.
 - g) Maximum lot coverage shall be 35 percent.
 - h) Each structure shall be served with off-lot sewage treatment and water service.
 - i) Off-street parking facilities, comprising two parking spaces per dwelling unit shall be provided and placed behind the building line.
 - j) Each dwelling unit shall contain the following:
 - 1) Separate entrance from the exterior.
 - 2) Separate sanitary facilities, cooking, and dining accommodations.
 - 3) A minimum of three rooms including a bathroom and at least two other habitable rooms, at least one of which shall serve as a bedroom.

E. Use Permitted By Conditional Approval

A parcel may be used and buildings or structures may be erected and used for the following uses in this Zoning District subject to the granting by Borough Council of a Conditional Use under the regulations and procedures of this Ordinance.

1. Group Residential Service provided said use complies with the following additional regulation:
 - a) Minimum lot size shall be 6,000 square feet.
 - b) Minimum lot width shall be 60 feet.
 - c) Minimum front yard shall be 25 feet.
 - d) Minimum side yard shall be 15 feet per side.
 - e) Minimum rear yard shall be 25 feet.
 - f) Maximum height shall be 35 feet.
 - g) Maximum lot coverage shall be 35 percent.
 - h) The structure shall be served with off-site sewage treatment and water service.
 - i) The Group Residential Service shall be owned and sponsored by a governmental agency, their licensed or certified agent or a non-profit social service corporation.
 - j) Supervision is provided by adults certified by the owner of the service.
 - k) Supervision is provided by a minimum of two adults on a 24-hour a day basis while residents are on the premises.
 - l) The number of residents shall be limited to no more than (eight) persons including clients, staff and family of staff. Client residents shall be limited to (six) persons.
 - m) A nonconforming structure shall not be used as a Group Residential Service.
 - n) Minimum off-street parking spaces required shall be two parking spaces plus one space for every 200 square feet of net floor area.
 - o) A Group Residential Service shall not be located less than (one-quarter) mile radius from any other Group Residential Service or a Group Care Service.
 - p) A Group Residential Service shall provide exterior open space usable and accessible to the clients at a minimum rate of sixty-five square feet per client.
 - q) Visual screening shall be provided along the side and rear property lines.
 - r) The owner and sponsor shall file annually with the Zoning Officer information indicating the service continues to satisfy the standards and conditions of the original approval. Any change in ownership or sponsorship or any change in conditions of the original approval shall constitute a new use and the full procedure for obtaining a new use shall be complied with.

Section 603 R-3, URBAN RESIDENTIAL

A. The purpose of the R-3, Urban Residential District is to provide for a higher density urban living environment with a variety of housing types for various income levels.

B. Principal Permitted Use

1. Single-family detached dwelling.
2. Private garage or parking lot, used exclusively for automobile parking for the adjacent residential use.
3. Church or similar place of worship conducted within the interior of a building.

C. Accessory Permitted Use

1. Private Garage or parking area complying with Article VII.
2. Signs complying with Article VIII.
3. Household pets.
4. Home gardening.
5. Other accessory uses customarily related and incidental to the principal use.

D. Use Permitted By Special Exception

Where the Zoning Hearing Board has held a public hearing, been assured that the standards and criteria governing the granting of a Special Exception as provided for in this Ordinance have been met within the purpose and intent of this Ordinance, and that no hazardous condition will result, a lot or parcel may be used and buildings and structures may be erected for one of the following principal uses:

1. School.
2. Governmental Use and Building.
3. Home Occupations complying with Section 520.
4. Semi-detached dwelling or two-family detached dwelling (duplex) or conversion apartment limited to two (2) dwelling units complying with the following requirements:
 - a) Minimum lot size shall be 6,000 square feet.
 - b) Minimum lot width shall be 60 feet.
 - c) Minimum front yard shall be 25 feet.
 - d) Minimum side yard shall be 15 feet per side.
 - e) Minimum rear yard shall be 25 feet.
 - f) Maximum height shall be 35 feet.
 - g) Maximum lot coverage shall be 35 percent.
 - h) Each structure shall be served with off-lot sewage treatment and water service.
 - i) Off-street parking facilities, comprising two parking spaces per dwelling unit shall be provided and placed behind the building line.
 - j) Each dwelling unit shall contain the following:
 - 1) Separate entrance from the exterior.
 - 2) Separate sanitary facilities, cooking, and dining accommodations.
 - 3) A minimum of three rooms including a bathroom and at least two other habitable rooms, at least one of which shall serve as a bedroom.

5. Multi-family dwelling complying with the following requirements:

- a) Minimum lot size shall be 14,500 square feet, however, a minimum of 3,630 square feet of lot shall be required for each dwelling unit.
- b) Minimum lot width shall be 60 feet.
- c) Minimum front yard shall be 25 feet.
- d) Minimum side yard shall be 15 feet per side.
- e) Minimum rear yard shall be 40 feet.
- f) Maximum height shall be 35 feet unless passenger elevators are provided, and in no case shall the height exceed 75 feet.
- g) Maximum lot coverage shall be 50 percent.
- h) Each structure shall be served with off-lot sewage treatment and water service.
- i) Off-street parking facilities, comprising a minimum of one and one half parking spaces per dwelling unit shall be provided and placed behind the building line.
- j) Each dwelling unit shall contain the following:
 - 1) Separate entrance from the exterior.
 - 2) Separate sanitary facilities, cooking, and dining facilities.
 - 3) A minimum of three rooms including a bathroom and at least two other habitable rooms, at least one of which shall serve as a bedroom.

E. Use Permitted By Conditional Approval

A parcel may be used as a mobile home park in this Zoning District subject to the granting by Borough Council of a Conditional Use under the regulations and procedures of this Ordinance and the following additional conditions:

1. Minimum lot size for the park shall be 2½ acres.
2. Minimum lot width for the park shall be 60 feet.
3. Minimum front yard shall be 25 feet for park and individual mobile homes.
4. Minimum side yard shall be 10 feet per side for park and individual mobile homes.
5. Minimum rear yard shall be 25 feet for the park and individual mobile homes.
6. Maximum height shall be 20 feet.
7. Maximum lot coverage shall be 35 percent.
8. Each mobile home shall be served with off-lot sewage treatment and water service.
9. Off-street parking facilities, comprising two off-street parking spaces per mobile home shall be provided and placed behind the building line. For additional parking requirements see Article VII.
10. Each mobile home contain two separate entrances to the exterior and shall contain at a minimum four separate rooms, including a bathroom, a kitchen, a bedroom, and at least one other separate room.
11. The soils of the lot shall be stable without mud or land slide potential and the lot shall be without a flood-prone area.

12. The mobile home shall be supported on a structurally sound foundation with the footing a minimum of three (3) feet below existing ground line, and in no event shall it be erected on jacks, loose blocks, or other temporary materials, the foundation shall be approved by the Borough Engineer prior to construction.
13. An enclosure of compatible design and materials shall be erected around the entire base of the mobile home. Such enclosure shall be rodent-proof yet provide sufficient ventilation to inhibit decay and deterioration of the structure.
14. A visual screen shall be provided on the side and rear lot lines for the mobile home park.

Section 604 C-1, COMMERCIAL

- A. The purpose of the C-1, Commercial District is to encourage centralized business activity in economically advantageous areas while preserving the traffic carrying capacity of roads and highways.
- B. Principal Permitted Use
 1. Retail Trade establishment excluding gasoline service stations and used automotive parts and accessory establishments.
 2. Finance, insurance, and/or real estate establishment.
 3. Service establishment including transportation service but excluding automotive repair shop, amusement, recreation service where the use or any portion of the use is outside of a building or structure, and group care service.
 4. Public administration, Governmental Use.
 5. Local and Suburban Transit and Interurban Highway Passenger Transportation Service.
 6. Service and retail trade for construction use but excluding the exterior storage of materials and equipment.
 7. A combination of one or more of the principal permitted uses noted in 2a to f.
- C. Accessory Permitted Use
 1. Accessory uses customarily related and incidental to the principal use.
 2. Parking, loading, and unloading areas complying with the conditions set forth in this Ordinance.
 3. Signs complying with the conditions set forth in this Ordinance.
- D. Use Permitted By Special Exception

Where the Zoning Hearing Board has held a public hearing, been assured that the standards and criteria governing the granting of a Special Exception as provided for in this Ordinance have been met within the purpose and intent of this Ordinance, and that no hazardous condition will result, a lot or parcel may be used and buildings and structures may be erected for one of the following principal uses provided access to said use is over an arterial or collector street or road without the use of a local residential street or road.

 1. Gasoline service station and automotive repair shop being
 - * less than 200 feet along the front property line from another gasoline service station or automotive repair shop and where the use is more than 50 feet from a residential lot or a residential zoning district.

2. Amusement or recreation service, where this use or a portion of the use is outside of a building. Said use shall be more than 50 feet from a residential lot or a residential zoning district and visually screened at side and rear yards from the residential use.
3. Wholesale trade establishment provided any exterior storage is behind the building line and more than 50 feet from a residential lot or a residential zoning district.
4. Group Care Service, provided the following standards are complied with:
 - a) The Group Care Service shall be owned and sponsored by a governmental agency, their licensed or certified agent or a non-profit social service corporation.
 - b) Supervision is provided by adults certified by the owner of the service.
 - c) Supervision is provided by a minimum of two adults on a 24-hour a day basis while residents are on the premises.
 - d) The number of residents shall be limited to no more than (fourteen) persons including clients, staff and family of staff. Client residents shall be limited to (ten) persons.
 - e) Minimum lot area, lot width, front yard, side yard and rear yard requirements as well as maximum lot coverage shall be complied with.
 - f) A nonconforming structure shall not be used as a Group Care Service.
 - g) Minimum off-street parking spaces required shall be one parking space for every 200 square feet of net floor area.
 - h) A Group Care Service shall not be located less than one-quarter mile radius from any other Group Care Service or a Group Residential Service.
 - i) A Group Care Service shall provide exterior open space usable and accessible to the clients at a minimum rate of sixty-five square feet per client.
 - j) Visual screening shall be provided along the side and rear property lines.
 - k) The owner and sponsor shall file annually with the Zoning Officer information indicating the service continues to satisfy the standards and conditions of the original approval. Any change in ownership or sponsorship or any change in conditions of the original approval shall constitute a new use and the full procedure for obtaining a new use shall be complied with.
5. Multi-family dwelling complying with the following requirements:
 - a) Minimum lot size shall be 14,500 square feet, however, a minimum of 3,630 square feet of lot shall be required for each dwelling unit.

- b) Minimum lot width shall be 60 feet.
- c) Minimum front yard shall be 25 feet.
- d) Minimum side yard shall be 15 feet per side.
- e) Minimum rear yard shall be 40 feet.
- f) Maximum height shall be 35 feet unless passenger elevators are provided, and in no case shall the height exceed 75 feet.
- g) Maximum lot coverage shall be 60 percent.
- h) Each structure shall be served with off-lot sewage treatment and water service.
- i) Off-street parking facilities, comprising a minimum of one and one half parking spaces per dwelling unit shall be provided and placed behind the building line.
- j) Each dwelling unit shall contain the following:
 - 1) Separate entrance from the exterior.
 - 2) Separate sanitary facilities, cooking, and dining facilities.
 - 3) A minimum of three rooms including a bathroom and at least two other habitable rooms, at least one of which shall serve as a bedroom.

E. Use Permitted By Conditional Approval

Where Borough Council has granted conditional approval under the regulations and procedures of this Ordinance and the plans for the proposed use meet the standards and criteria set forth in this Ordinance for a conditional use, a lot or parcel may be used and buildings or structures may be erected for one of the following principal uses provided access to said use is over an arterial or collector street without the use of a local residential street or road.

- 1. Dwelling unit(s) on the upper floor not the ground floor of a permitted use or special exception use provided the dwelling unit(s) meet the other requirements of this Ordinance.
- 2. Manufacturing related to soft drinks; printing; apparels from fabric; and furniture.

Section 605 C-2, NEIGHBORHOOD COMMERCIAL

A. The purpose of the C-2, Neighborhood Commercial Zoning District is to encourage unified arrangements of commercial areas designed to serve the nearby residential neighborhood.

B. Principal Permitted Use

- 1. Retail trade establishment where all display of merchandise and products, sales and transactions are confined to the interior of the building and excluding gasoline service stations, alcoholic beverage drinking places, and used merchandise retail trade.
- 2. Finance, insurance, and/or real estate establishment where all display of products and merchandise, sales and transactions are confined to the interior of the building.
- 3. Service establishment where all activity and use is confined to the interior of the building and excluding hotels, motels, rooming or boarding houses, camps, and other lodging places; business services; automotive repair, services, and garages; amusement and/or recreation service;

motion pictures; nursing and personal care facilities, group residential or care service; and membership organizations.

4. Governmental use and building and Public Administration.
5. A combination of one or more of the principal permitted uses noted in B. 1-4.

C. Accessory Permitted Use

1. Accessory uses customarily related and incidental to the principal use.
2. Parking, loading, and unloading areas complying with the conditions set forth in this Ordinance.
3. Signs complying with the conditions set forth in this Ordinance.
4. Dwelling unit on the upper floor(s) not on the ground level floor, when said unit is within the principal structure, where the habitable area of said dwelling unit occupies no more than 40 percent of the gross floor space of the principal structure and provided the dwelling unit(s) meet the other requirements of this Ordinance.

D. Use Permitted by Special Exception

Where the Zoning Hearing Board has held a public hearing, been assured that the standards and criteria governing the granting of a Special Exception as provided for in this Ordinance have been met within the purpose and intent of this Ordinance, and that no hazardous condition will result, a lot or parcel may be used and buildings and structures may be erected for one of the following principal uses provided the following regulations are complied with:

1. Gasoline Service Station; or automotive repair, service and garage being less than 600 feet along the front property line from another gasoline service station; automotive repair, service, and garage and where the use is more than 50 feet from a residential lot or a residential zoning district and where all automotive repair work and storage of automotive parts, motor vehicles, and similar items are confined to the interior of buildings.
2. Used merchandise establishment (excluding automotive parts and accessories, brick and construction materials) when all merchandise, displays, sales, and transactions are confined to the interior of buildings.
3. Semi-detached dwelling units, two family detached dwellings (duplex), or conversion apartment limited to 2 units complying with the following regulations:
 - a) Minimum lot size shall be 6,000 square feet.
 - b) Minimum lot width shall be 60 feet.
 - c) Minimum front yard shall be 25 feet.
 - d) Minimum side yard shall be 15 feet per side.
 - e) Minimum rear yard shall be 25 feet.
 - f) Maximum height shall be 35 feet.

- g) Maximum lot coverage shall be 35 percent.
- h) Each structure shall be served with off-lot sewage treatment and water service.
- i) Off-street parking facilities, comprising two parking spaces per dwelling unit shall be proposed and placed behind the building line.
- j) Each dwelling unit shall contain the following:
 - 1) Separate entrance from the exterior.
 - 2) Separate sanitary facilities, cooking, and dining accommodations.
 - 3) A minimum of three rooms including a bathroom and at least two other habitable rooms, at least one of which shall serve as a bedroom.

Section 606 I-P, INDUSTRIAL PARK

- A. The purpose of the I-P, Industrial Park District is to protect the existing industry from encroachment of noncompatible uses and to develop areas to expand the Borough's industrial sector of its economy.
- B. Principal Permitted Use
 - 1. Wholesale trade establishment provided any exterior storage is behind the building line and more than 50 feet from a residential lot or a residential zoning district.
 - 2. Transportation, Communications, Electric, Gas, or Sanitary Service Establishment.
 - 3. Construction establishment provided any exterior storage is behind the building line and more than 50 feet from a residential lot or zoning district.
 - 4. Manufacturing limited to food and kindred products (except the manufacturing of fats and oils); tobacco; textile mill products; apparel and other goods made from fabrics and similar materials; furniture and fixtures; printing and publishing; fabricated metal products; machinery; electrical and electronic machinery, equipment, and supplies; transportation equipment; measuring, analyzing, and controlling instruments; miscellaneous manufacturing industries (SIC-39) provided any exterior storage is behind the building line and more than 200 feet from a residential lot or a residential zoning district and provided that the standards and criteria governing the allowance of conditional uses have been met for the above-noted manufacturing uses.
 - 5. Agricultural uses.
 - 6. Outdoor recreational uses.
- C. Accessory Permitted Use
 - 1. Retail trade or service establishment customarily incidental to the principal use.
 - 2. Parking, loading, and unloading areas complying with the conditions set forth in this Ordinance.
 - 3. Signs complying with the conditions set forth in this Ordinance.
 - 4. Accessory uses customarily incidental to the principal use.

D. Use Permitted By Special Exception

Where the Zoning Hearing Board has held a public hearing, been assured that the standards and criteria governing the granting of a Special Exception as provided for in this Ordinance have been met within the purpose and intent of this Ordinance, and that no hazardous condition will result, a lot or parcel may be used and buildings and structures may be erected for one or more of the following principal uses provided access to said use is over an arterial or collector street or road without the use of a local residential street or road.

1. Manufacturing of fats and oils; lumber and wood products except furniture; paper and allied products; chemicals and allied products; petroleum refining; rubber and miscellaneous plastic products; leather and leather products; stone, clay, glass, and concrete products; primary metal industries plus mining and mining services provided any exterior storage is behind the building line and more than 200 feet from a residential lot or a residential zoning district.
2. Billboard signs provided the additional regulations set forth in Article VIII are complied with.

E. Use Permitted by Conditional Approval

Where Borough Council has granted conditional approval under the regulations and procedures of this Ordinance and the plans for the proposed use meet the standards and criteria set forth in this Ordinance for a conditional use, a lot or parcel may be used and buildings or structures may be erected for one of the following principal uses provided access to said use is over an arterial or collector street without the use of a local residential street or road.

1. Organic Material Storage and Disposal (Sanitary Landfills), Nonorganic Material Storage and Disposal, Scrap and Waste Material Storage, Junk Yards and Second Hand Automotive Parts and Accessories Sales provided such use conforms to the additional regulations set forth in Section 516.

Conway Borough

Section 607

REQUIRED ZONING DISTRICT

MINIMUM LOT AREA, LOT WIDTH, YARD REQUIREMENTS; MAXIMUM PERMITTED BUILDING HEIGHT, LOT COVERAGE, AND GROSS RESIDENTIAL DENSITY for the R-1, R-2, and R-3 Districts

A. ZONING DISTRICT

	R-1		R-2		R-3	
	For Permitted Uses	For Special Exception Uses	For Permitted Uses	For Special Exception Uses	For Permitted Uses	Special Exception Uses
1. Minimum Lot Area						
a. With On-Lot Sewage Treatment	$\frac{1}{2}$ acre	1 acre	Not Permitted	Not Permitted	Not Permitted	Not Permitted
b. With Off-Lot Sewage Treatment	7,200 sq. ft.	$\frac{1}{2}$ acre	5,000 sq. ft.	10,000 sq. ft.	5,000 sq. ft.	10,000 sq. ft.
2. Minimum Lot Width						
a. With On-Lot Sewage Treatment	80 feet	100 feet	Not Permitted	Not Permitted	Not Permitted	Not Permitted
b. With Off-Lot Sewage Treatment	60 feet	60 feet	40 feet	60 feet	40 feet	60 feet
3. Minimum Yard						
a. Front	25 feet	25 feet	25 feet	25 feet	25 feet	25 feet
b. Side (per side)	10 feet	15 feet	10 feet	15 feet	10 feet	15 feet
c. Rear	25 feet	25 feet	25 feet	25 feet	25 feet	25 feet
4. Maximum Building Height *	35 feet	35 feet	35 feet	35 feet	35 feet	45 feet
5. Maximum Lot Coverage	35%	35%	35%	35%	35%	35%
6. Gross Residential Density	6 units per acre	6 units per acre	8 units per acre	8 units per acre	8 units per acre	12 units per acre

* For principal building, however the height of an accessory building or structure shall not exceed 14 feet.

REQUIRED ZONING DISTRICT

MINIMUM LOT AREA, LOT WIDTH, YARD REQUIREMENTS; MAXIMUM PERMITTED BUILDING HEIGHT; LOT COVERAGE, AND GROSS RESIDENTIAL DENSITY for the C-1, C-2, and I-P Districts

A. ZONING DISTRICT

	<u>C-1</u>	<u>C-2</u>	<u>I-P</u>
	Permitted and Special Exception Uses and Conditional Uses**	Permitted and Special Exception Uses**	For All Uses
1. Minimum Lot Area	1 acre	1 acre	5 acres
a. With On-Lot Sewage Treatment	8,000 sq. ft.	10,000 sq. ft.	1 acre
b. With Off-Lot Sewage Treatment			
2. Minimum Lot Width			
a. With On-Lot Sewage Treatment	100 feet	100 feet	300 feet
b. With Off-Lot Sewage Treatment	50 feet	50 feet	150 feet
3. Minimum Yard			
a. Front	25 feet	25 feet	50 feet
b. Side	15 feet, provided that no side yard shall be required where it is intended that two or more commercial uses adjoin side by side.	15 feet,	50 feet
c. Rear	25 feet	25 feet	50 feet
4. Maximum Building Height	45 feet	45 feet	45 feet
5. Maximum Lot Coverage	60%	45%	60%
6. Gross Residential Density	12 units per acre	8 units per acre	-----
7. Visual Screen	Where the uses within these Districts abut a residential use or a residential zoning district, a visual screen shall be required in the side and rear yard(s).		

**Additional requirements apply to special exception and/or conditional uses

ARTICLE VII
OFF-STREET PARKING, LOADING, AND UNLOADING REGULATIONS

Section 700 GENERAL REGULATIONS

Off-street parking, loading and unloading facilities shall be provided to lessen congestion in the streets and roads. All uses shall be required to comply with the off-street parking, loading, and unloading regulations provided within this Ordinance.

- A. AVAILABILITY OF FACILITIES: The off-street parking, loading, and unloading facilities shall be available throughout the hours of operation of the land use and/or activity for which such facilities are provided. In addition, off-street space(s) shall be provided for the parking of delivery vehicles awaiting loading or unloading and arriving after the hours of operation of the land use or activity for which such facility is provided.
- B. MULTIPLE OCCUPANCY: In the case of two (2) or more uses in the same structure, the total requirements for off-street parking, loading, and unloading facilities shall be the sum of the requirements for the several uses computed separately. Off-street parking, loading, and unloading facilities for one (1) use shall not be considered as providing required parking facilities for any other use.
- C. PARKING SPACE:
 - 1. The minimum parking space per motorized vehicle shall be not less than nine (9) feet wide and eighteen (18) feet long, whether inside or outside a structure and used exclusively for the temporary standing of a motorized vehicle. However, all parking space(s) shall be ample in size for the type of motorized vehicle for which it is intended and shall have access to a public street. The parking space shall be located off or beyond the public right-of-way.
 - 2. The parking space(s) shall be on the lot or parcel of the use for which the space is being provided.
 - a. Off-Lot Parking may be permitted provided:
 - 1) The off-lot parking shall be within a maximum distance of four hundred (400) lineal feet from the use for which the parking is being provided.
 - 2) The Owner of the property used for the parking area shall be the same Owner of the property under development.
- D. LOADING AND UNLOADING SPACE:
 - 1. The minimum loading and unloading space shall not be less than twelve (12) feet wide and fifty-five (55) feet deep with an overhead clearance of fourteen (14) feet six (6) inches plus an additional thirty (30) feet in depth for a docking approach. This space may be inside, enclosed, or

outside of a structure and shall be used exclusively for the temporary standing of a motorized vehicle while loading or unloading merchandise or materials. This space shall be located off or beyond the public right-of-way and shall have direct access to a public street.

2. All loading and unloading space(s) shall be ample in size for the type of motorized vehicle for which it is intended.
3. The loading and unloading space(s) shall be on the lot or parcel of the use for which the loading/unloading space is being provided.

E. **ARRANGEMENT/LOCATION:** All off-street parking or loading/unloading area(s) shall be so arranged or located as to provide for orderly and safe parking, loading, unloading, and storage of vehicles. No application for a permit to construct or use a new or enlarged structure or improvement shall be accepted unless there is included a plot plan drawn to scale, showing the location, layout, and other necessary details of the off-street parking, loading/unloading facilities required.

1. All parking spaces shall be independently accessible such that a vehicle may enter or exit any space without the necessity of moving another vehicle.
2. No off-street parking, loading, or unloading space shall be located or arranged so as to permit or cause any vehicle to be backed out onto any Collector, Principal Arterial, or Minor Arterial street.
3. In parking areas of one (1) to six (6) parking spaces an additional ninety (90) square feet per parking space shall be required for turning and access.
4. In parking areas containing more than six (6) parking spaces parking aisles shall be required.
 - a. The width of the aisle between lanes of parking stalls which provides access to individual parking spaces shall be sized in accordance to the degree of parking angle provided in such parking spaces as follows:

<u>Parking Angle</u>	<u>Minimum Required Aisle Width</u>	
	<u>One-way traffic</u>	<u>Two-way traffic</u>
30°	10 feet	20 feet
45°	12 feet	*
60°	18 feet	**
70°	19 feet	22 feet
90°	23 feet	24 feet

NOTE: Additional aisle width shall be required where the aisle serves as a principal means of access (access drive) to on-site buildings or structures. *Where parking angles of 45° to 60° are planned, only one-way traffic on aisles shall be provided.

- b. One-way aisles shall not be "dead-ended." A functional exit and turn-around shall be provided.
- c. All aisle widths shall be so sized to provide the maneuvering space necessary to permit the safe, convenient parking of motor vehicles.

F. **STANDBY/STACKING LANE(S):** Adequate standby/stacking lane(s) to serve as reservoir capacity into parking areas or to drive-in service areas shall be provided adjacent to but separate from the parking aisles and access drives.

1. Facility/Use	Reservoir Capacity of Standby/Stacking Lane(s)*
Drive-In Banks, Financial, or similar uses	3 spaces per auto teller station
Drive-In Theaters or or similar uses	15% of theater parking space capacity
Drive-In Retail Trade or Services	3 spaces per attendant station
Car Washes with attendants or similar uses	15 spaces
Gasoline Service Stations or similar uses	6 spaces per gasoline pump
Parking Lots and/or Garages or similar uses	
with free flow entry	1 space per entry drive
with ticket dispenser entry	2 spaces per entry drive
with manual ticket dispensing	6 spaces per entry drive
with attendant parking	10% of the parking space capacity served by that entry drive

*NOTE: "Space" as used above shall be defined as being the minimum parking space specified by the terms of this Ordinance.

- 2. To assure that vehicles awaiting for entrance into facilities do not obstruct the public street, the Borough reserves the right to assign requirements for reservoir capacity of standby/stacking lanes to uses not specifically mentioned in item 1 but of a similar nature.

G. **DRIVEWAYS AND ACCESS DRIVES TO OFF-STREET PARKING AND LOADING/UNLOADING FACILITIES:** There shall be adequate provision for ingress and egress to all parking and loading/unloading spaces designed for use by residents, employees, customers, delivery services, sales people, and, where applicable, the general public. Driveways and access drives shall consist of well-defined separate or common entrances, exits, pedestrian ways, and shall comply with the following provisions:

1. A parking area of one (1) to fifty (50) parking spaces shall be provided with a driveway of not less than (10) feet in width. A single-family detached, attached, or semi-detached plus a two-family detached residential dwelling and a mobile home shall be excluded from this requirement.
 2. A parking area for more than fifty (50) parking spaces and all parking areas for public and non-profit uses and multi-family developments shall be provided an access drive of not less than twelve (12) feet in width per lane of traffic. Each access drive shall have a minimum of one (1) entrance and one (1) exit lane.
 3. Loading and unloading areas shall be provided with an access drive of not less than eighteen (18) feet in width per lane of traffic. Each access drive shall have a minimum of one (1) entrance and one (1) exit lane.
 4. The maximum permitted width of driveways or access drives at the curb or public street right-of-way shall be 36 feet.
- H. FIRE LANES: Fire lanes shall be provided in accordance with and as required by the Borough's Fire Department.
- I. DESIGN: All parking spaces, parking areas, parking aisles, standby/stacking lanes, loading, and unloading spaces and areas plus fire lanes, access drives and driveways shall be designed in accordance with the following requirements:
1. All parking spaces, parking areas, parking aisles, standby/stacking lanes, loading, and unloading spaces and areas plus access drives and driveways shall be graded and drained in such a manner that there will be no free flow of water onto either adjacent property, sidewalks, or public streets.
 2. All driveways and parking spaces shall be surfaced so as to provide a durable and dustless surface such as gravel, slag, concrete, or bituminous materials.
 3. For parking facilities of over fifty (50) spaces; the parking aisles shall be paved with concrete or bituminous materials and the maximum permitted finished grade slope shall be five (5) percent.
 4. All fire lanes, access drives, loading, and unloading areas of over fifty (50) spaces shall be paved with concrete or bituminous materials and the maximum permitted finished grade slope shall be ten (10) percent.
- J. LIGHTING:
1. The lighting of any parking spaces, parking areas, parking aisles, standby/stacking lanes, loading, and unloading spaces and areas, fire lanes, access drives, and driveways shall be required if such facilities are open and accessible to the general public when or where there is no natural light.

2. The lighting system shall be so designed to produce a minimum averaged maintained light level of from one (1) to two (2) foot-candles on the horizontal surface of the entire parking, loading/unloading facility. Entire parking facility to include parking spaces, parking areas, parking aisles, standby/stacking lanes, loading, and unloading spaces and areas, fire lanes, access drives, and driveways. A parking facility for a single-family detached, attached, semi-detached, a two-family detached or a mobile home on an individual lot shall be excluded from this requirement.
3. No lighting used to illuminate any parking spaces, parking areas, parking aisles, standby/stacking lanes, loading, and unloading spaces and areas, fire lanes, access drives, and driveways shall be permitted which results in a lighting level of more than five-tenths (0.5) minimum average maintained horizontal footcandles being reflected onto adjacent properties.
4. The lighting standards (poles) shall not exceed the height of thirty-five (35) feet.

K. SIGNING:

1. For purposes of safety, all traffic movements (vehicular and pedestrian) and parking movements shall be controlled and/or separated utilizing signing (on pole standards or pavement marking) and/or various forms of curbing.
2. The traffic movement patterns and signage shall be approved by the Borough.

L. MAINTENANCE OF OFF-STREET PARKING AND LOADING AREAS:

1. Owners of all parking and loading/unloading facilities shall be required to maintain both the number and the quality of such parking and/or loading/unloading facilities, parking aisles, standby/stacking lanes, driveways, and access drives in accordance with the conditions, standards, and requirements set forth in this Ordinance for as long as the principal use for which these facilities are required is in existence.
2. Owner of all parking and loading/unloading facilities shall be required to keep these areas free of trash, debris, vehicle repair operations or display, and advertising uses.

M. CLEAR SIGHT TRIANGLE RESTRICTIONS: No screen planting, visual screen, landscaping, wall, sign, vehicle, or other obstruction shall be placed or erected within the clear sight triangle of all public street intersections and at the intersection of accessways or driveways with public streets. A driveway serving as access to an individual single-family detached, attached, semi-detached, a two-family detached dwelling or a mobile home are excluded from this requirement.

N. YARDS AND SETBACKS FOR OFF-STREET PARKING AND LOADING/UNLOADING FACILITIES:

1. All parking and loading/unloading spaces and areas, parking aisles and standby/stacking lanes shall be separated from the paving edge of a public street and from adjoining property line(s) by a planting strip the depth of which shall be ten (10) feet. Such planting strip shall be properly landscaped or screened. In some circumstances the Borough may require wheel stops or curbing at the perimeter of parking facilities or loading/unloading facilities to serve as a suitable barrier to prevent vehicle encroachment beyond the planting strip, yard and/or property line.
2. All off-street parking and loading/unloading facilities of non-residential uses abutting a residential use or residential Zoning District shall be screened from this residential lot, use, and/or Zoning District by a visual screen.

O. UNDERGROUND/SUBSURFACE GARAGE: A garage or similar structure used as an off-street parking and/or loading/unloading facility may be constructed under a side yard or rear yard. The space above the underground/subsurface garage may be regarded as part of the required yard space (open space) of the lot on which it is located provided that a minimum of three (3) sides of the underground garage are below the level of the exterior grade of the surrounding yard.

Section 701 PARKING FACILITIES REQUIRED:

Any structure or building hereafter erected or enlarged for any of the following uses or combination of uses or any open areas hereafter used for one or several uses shall be provided with not less than the minimum off-street parking spaces as set forth below. Said parking spaces shall be developed in accordance with applicable General Regulations within this Article. Fractional numbers of parking spaces shall be increased to the next whole number. Where a lot or a structure contains more than one (1) use the total of all parking requirements for all uses shall apply.

NOTE: Uses listed below are defined under Article III of this Ordinance and further clarified within the Standard Industrial Classification Manual, U.S. Department of Commerce.

A. RESIDENTIAL USES:

1. Single-family detached or attached dwelling, mobile home, single-family semi-detached dwelling, and two-family detached dwelling shall be provided with two (2) off-street parking space per dwelling unit.
2. A multi-family dwelling shall be provided with one and one-half ($1\frac{1}{2}$) off-street parking spaces, rounded to the next highest whole number, per dwelling unit. In addition, guest parking in the amount of one (1) space (rounded to the next highest whole number) shall be provided for each four (4) dwelling units.

3. A mobile home park shall provide guest parking in the amount of one (1) space (rounded to the next highest whole number) for each four (4) mobile home berths.
4. Community buildings being part of a residential development or a mobil home park development shall provide one (1) parking space per ten (10) dwelling units within the development.
5. Home occupations shall provide two (2) parking spaces for patron use in addition to the required residential parking.
- B. CONSTRUCTION USES: All uses shall provide one (1) parking space per employee, plus one (1) parking space per every two-hundred (200) square feet of net floor area open to the general public.
- C. MANUFACTURING USES: All uses shall provide one (1) parking space for every employee on the two (2) largest shifts combined, plus one (1) parking space for every two-hundred (200) square feet of net floor area open to the general public.
- D. TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS AND SANITARY SERVICES USES: All uses shall provide one (1) parking space per every employee on the two (2) largest shifts combined, plus one (1) parking space for every two-hundred (200) square feet of net floor area open to the general public.
- E. WHOLESALE TRADE USES: All uses shall provide one (1) parking space per every employee on the two (2) largest shifts combined, plus one (1) parking space for every two-hundred (200) square feet of net area open to the general public.
- F. RETAIL TRADE USES: All uses shall provide one (1) parking space per every employee, plus one parking space for every one-hundred and eighty (180) square feet of net floor area with a minimum of ten (10) parking spaces per retail use.
1. Shopping centers, commercial malls or developments having more than four retail trade establishments shall provide five and one-half (5.5) parking spaces per one thousand (1,000) square feet of net floor space. This parking requirement is exclusive of parking facilities required for an associated movie theater, or similar amusement or recreation use, or for office space if such office space exceeds twenty percent (20%) of the total gross floor area of the development. The required parking for a movie theater, or similar amusement or recreation use, or for office space for services, shall be in addition to the 5.5/1,000 requirement and as specified elsewhere in this Article.

- G. FINANCE, INSURANCE, AND REAL ESTATE USES:** Each office use in association with these activities shall provide one (1) parking space for every two-hundred (200) feet of net floor area.
- H. SERVICE USES:** All uses shall provide parking in accordance with the following schedule:
1. Hotels, motels, boarding and rooming houses, camps, and other lodging places shall provide one (1) parking space per guest room or sleeping unit or camp site, plus one (1) parking space per employee with a minimum of ten (10) parking spaces.
 2. Personal Service and Business Service uses including miscellaneous service and miscellaneous repair service uses shall provide one (1) parking space for every two-hundred (200) square feet of net floor area.
 3. Automotive repair, services and garages shall provide one (1) parking space per employee plus one (1) parking space for every two-hundred (200) square feet of gross floor space in addition to the space allocated for motor vehicle storage (minimum required five (5) parking spaces for storage).
 4. Motion Picture Theater shall provide one (1) parking space for each three (3) seats in the theater viewing areas.
 5. Amusement and Recreation uses shall provide off-street parking according to the following schedule:
 - a. Dance Halls, studios, and schools plus skating rinks shall provide one (1) parking space for every one-hundred (100) square feet of net floor area.
 - b. Bowling Alleys shall provide four (4) parking spaces per alley.
 - c. Billiard and pool establishments shall provide two (2) parking spaces per table.
 - d. Establishments primarily engaged in operating coin-operated amusement devices shall provide one (1) parking space per one-hundred (100) square feet of net floor area.
 - e. Regulation golf courses shall provide eight (8) parking spaces per hole.
 - f. Golf driving ranges shall provide one (1) parking space per tee.
 - g. Miniature golf courses shall provide two (2) parking spaces per hole.
 - h. Swimming pools shall provide one (1) parking space per two persons utilizing swimming, wading, or diving facilities based on the design capacity of such facilities.
 - i. Court games, such as tennis, racquetball, handball, etc.; shall provide two (2) parking spaces per court.
 - j. Membership Sports and Recreation Clubs and Health Clubs or physical culture clubs shall provide one (1) parking space per two-hundred (200) square feet of net floor area.

k. Commerical Sport Uses and Similar Large Assembly and Theaters, Stadiums, Auditoriums, Exhibition Halls and similar activities (Commercial, or Non-Commercial) shall provide parking in accordance with the following schedule:

1) Business office use in association with the classified activities shall provide one (1) parking space for every two-hundred (200) square feet of net floor area.

2) Fixed seating for public assembly in association with the classified activities shall provide one (1) parking space for each three (3) seats.

3) Interior uses of public gathering and assembly without fixed seating shall provide one (1) parking space for every one-hundred (100) square feet of gross floor space.

4) Exterior uses of public gathering and assembly without fixed seating shall provide one (1) parking space for every one thousand five-hundred (1,500) square feet of gross lot area.

5) Open area uses not elsewhere classified for recreational purposes shall provide one (1) parking space per one thousand five-hundred (1,500) square feet of gross lot area.

6. Health Service Uses shall provide parking according to the following schedule:

a. Offices of Physicians, Dentists, Osteopathic Physicians, Other Health Practitioners and similar uses shall provide one (1) parking space for every two-hundred (200) square feet of net floor area.

b. Nursing and Personal Care Facilities shall provide one parking space for every two-hundred (200) square feet of net floor area.

c. Hospitals shall provide one and one-half (1.5) parking spaces for every bed.

d. Medical and Dental Laboratories, Outpatient Care Facilities, and Health and Allied Services and similar uses shall provide one (1) parking space for every two-hundred (200) square feet of net floor area.

7. Legal Services Uses shall provide one (1) parking space for every two-hundred (200) square feet of net floor area.

8. Educational Service Uses:

a. Elementary and junior high/middle schools shall provide one (1) parking space per each teacher or other staff member plus a minimum of ten (10) parking spaces for general use.

b. Senior high and secondary schools shall provide one (1) parking space per every twenty (20) students plus one (1) parking space for each teacher or other staff member and a minimum of twenty (20) parking spaces for visitors of the general public.

- c. Colleges, universities, professional schools, junior colleges, and vocational schools shall provide one (1) parking space per every four (4) students plus one (1) parking space for each employee on the two (2) largest shifts combined.
 - d. Libraries and information centers shall provide one (1) parking space per every two-hundred (200) square feet of net floor area.
 - e. Schools not elsewhere classified within this Article shall provide one (1) parking space per two-hundred (200) square feet of net floor area.
 - f. For stadiums, theaters, auditoriums, and similar places of public assembly available for general public use within the school facility:
 - 1) Places of public assembly which are provided with fixed seating shall provide one (1) parking space for each three (3) seats.
 - 2) Interior places of public assembly without fixed seating shall provide (1) parking space for every one-hundred (100) square feet of gross floor space.
 - 3) Exterior places of public assembly without fixed seating shall provide one (1) parking space for every one thousand five-hundred (1,500) square feet of gross lot area.
9. Social Service Uses:
- a. Individual and Family Social Services, Job Training and Vocational Rehabilitation Services, Social Services not classified elsewhere, and similar uses shall provide one (1) parking space for every two-hundred (200) square feet of net floor area.
 - b. Day Care Services: Such uses shall provide one (1) parking space for each employee plus one (1) parking space for every four (4) clients enrolled.
 - c. Residential Care: Such uses shall provide one (1) parking space for every two-hundred (200) square feet of net floor area.
10. Churches, Religious and Membership Organization Uses shall provide parking in accordance with the following schedule:
- a. Business office uses in association with the classified activities shall provide one (1) parking space for every two-hundred (200) square feet of gross floor area.
 - b. Fixed seating for public assembly in association with the classified activities shall provide one (1) parking space for each three (3) seats.
 - c. Interior uses of public gathering and assembly without fixed seating shall provide one (1) parking space for every one-hundred (100) square feet of gross floor space.
 - d. Exterior uses of public gathering and assembly without fixed seating shall provide one (1) parking space for every one thousand five hundred (1,500) square feet of gross lot area.

- K. THOSE USES NOT ELSEWHERE CLASSIFIED: Shall provide parking in accordance with the following schedule:
1. Business office uses in association with the classified activities shall provide one (1) parking space for every two-hundred (200) square feet of net floor area.
 2. Fixed seating for public assembly in association with the classified activities shall provide one (1) parking space for each three (3) seats.
 3. Interior uses of public gathering and assembly without fixed seating shall provide one (1) parking space for every one-hundred (100) square feet of gross floor area.
 4. Exterior uses of public gathering and assembly without fixed seating shall provide one (1) parking space for every one thousand five hundred (1,500) square feet of gross lot area.
- L. NONCLASSIFIABLE OR NONCLASSIFIED USES:
1. Where new structure or uses are developed that are not classified in the above parking facilities requirements, the required parking facilities shall be determined by the Borough Council based on the most appropriate or closely associated use or activity.
 2. Where new structures or areas are developed but the proposed use is not yet determined, the most intensive use permitted within the Zoning District in which this use will be located shall be assigned to the structure or area in order to determine the parking requirements.
- M. TEMPORARY USES: The required parking facilities for a temporary use, where permitted under the provisions of this Ordinance, shall be as determined by the Zoning Officer.

Section 703 LOADING/UNLOADING FACILITIES REQUIRED:

In addition to the off-street parking facilities required and the applicable General Regulations contained within this Article, any structure or building hereafter erected or enlarged for any of the following uses or combination of uses or any open area hereafter used for one or several uses shall be provided with not less than the minimum off-street loading/unloading facilities as set forth below. Fractional numbers of loading spaces shall be increased to the next whole number.

NOTE: Uses listed below are defined under Article III of this Ordinance and further clarified within the Standard Industrial Classification Manual, U.S. Dept. of Commerce.

- A. RESIDENTIAL USES: Shall be provided the minimum off-street loading/unloading facilities described below:
1. Multi-family structures one (1) loading/unloading space per every twelve (12) dwelling units.
 2. Community or neighborhood buildings one (1) loading/unloading space per structure.

B. AGRICULTURE, FORESTRY, FISHING, MINING, CONSTRUCTION
MANUFACTURING, TRANSPORTATION, COMMUNICATION, GAS, ELECTRIC,
SANITARY SERVICES, WHOLESALE USES AND USES NOT ELSEWHERE
CLASSIFIED, NONCLASSIFIABLE OR NONCLASSIFIED:

1. Establishment or use from three thousand (3,000) square feet of gross floor space but not more than forty thousand (40,000) square feet of gross floor space shall have one (1) loading/unloading space.
2. Establishment or use having forty thousand one (40,001) to one hundred sixty thousand (160,000) square feet of gross floor space shall have one (1) loading space for each forty thousand (40,000) square feet of gross floor space.
3. Establishment or use having over one hundred sixty thousand (160,000) square feet of gross floor area shall have one (1) loading space for each eighty thousand (80,000) square feet of gross floor space in excess of one hundred sixty thousand (160,000) square feet.

C. RETAIL, FINANCE, REAL ESTATE, INSURANCE, SERVICE, AND PUBLIC
ADMINISTRATION ACTIVITIES:

1. Establishment or use in excess of five-thousand (5,000) square feet of gross floor area but not more than forty thousand (40,000) square feet of gross floor area shall have one (1) loading/unloading space.
2. Establishment or use having forty thousand one (40,001) to one hundred sixty thousand (160,000) square feet of gross floor space shall have one (1) loading/unloading space for each forty thousand (40,000) square feet of gross floor space.
3. Establishment or use having over one hundred sixty thousand (160,000) square feet of gross floor space shall have one (1) loading/unloading space for every additional eighty thousand (80,000) square feet of gross floor space in excess of one hundred sixty thousand (160,000) square feet.

ARTICLE VIII
SIGN REGULATIONS

Section 800 GENERAL REGULATIONS AND RESTRICTIONS

The following regulations and restrictions shall apply to all signs erected in all Zoning Districts.

- A. RIGHT-OF-WAY RESTRICTIONS: No sign shall be constructed, erected, or so located that any portion of the sign structure projects over or is placed within the right-of-way lines of any public highway or street except for official traffic signs or for street or road signs as required and erected by Local, State, and/or Federal governmental agencies or authorities.
- B. REAR YARD AND SIDE YARD RESTRICTIONS: The location of any sign shall not encroach upon any of the side or rear yard requirements of the Zoning District in which such sign may be erected.
- C. FRONT YARD RESTRICTION: A sign shall be a minimum of ten (10) feet from the public street right-of-way line.
- D. HEIGHT OF SIGNS: A sign wall mounted or overhead sign shall not project above the average elevation, that being the average height between the highest and lowest point of the main roof of the supporting building. A free-standing sign shall not project more than thirty-five (35) feet above the average ground level at the base of such sign.
- E. CLEAR SIGHT TRIANGLE RESTRICTIONS: No sign, structure, wall, or other obstruction to sight visibility shall be erected within the clear sight triangle as defined within this Ordinance. The clear sight triangle shall be maintained at all street intersections, driveway and accessway entrances onto streets, and all other established or proposed points of entry onto a public road or street.
- F. PORTABLE SIGN RESTRICTION: No sign shall be erected, placed, or constructed in any Zoning District on a movable base, sled, trailer vehicle, or any device of any type which may be used for the purpose of displaying such portable sign which is capable of being moved from one location to another. No sign shall be permitted that is not permanently affixed to a building, structure, or the ground with the exception of permitted temporary signs which shall be securely affixed to a building, structure, or the ground.
- G. SIGN MOVEMENT RESTRICTIONS:
 - 1. Time, date, and temperature signs may include devices indicating digital time and temperature, but such shall not change in any interval which indicates flashing or blinking.
- H. SIGN WORDING RESTRICTIONS: Any sign other than official governmental traffic control signs using the words "Stop," "Look," "Listen," "Slow," "Danger," or any other word, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse traffic shall be prohibited.

I. SIGN MAINTENANCE: All signs shall be constructed of durable materials, kept in good repair, and in a sound, secure condition.

J. SIGN REMOVAL:

1. Any nonconforming sign and its supporting structure or hanging devices, visible from any street or highway, which is not kept in good repair or which creates a public nuisance or safety hazard shall be removed by the Owner(s) of said sign within thirty (30) days following proper notification by the Borough.
2. All permanent signs shall be removed within thirty (30) days following the cessation of circumstances leading to the erection of such signs.
3. In the case of a nonconforming sign determined to be a public nuisance or hazard which has not been removed by the Owner(s) within thirty (30) days following proper notification by the Borough, or in the case of a permanent sign which has not been removed by the Owner(s) within the thirty (30) day time period specified by the provisions of this Ordinance; then the Borough, in order to prevent such signs from becoming injurious to public health and welfare, may enter upon the premises upon which such sign is erected and remove said sign along with its supporting structure or hanging devices. All costs and expenses of removal shall be the obligation of the Owner(s) of said signs and the Borough may proceed to collect said costs and expenses by any legal procedure that said Borough deems advisable, including, without limitation, the filing of a municipal lien.

K. LIGHTS/LIGHTING FOR SIGNS:

1. A sign may be illuminated, if such illumination is permitted under the provisions of this Ordinance, if the illumination is confined to and directed to the surface of the sign.
2. All lighting shall be so arranged as to reflect the light away from adjoining premises and public right-of-way. No lighting shall be permitted which results in a lighting level of more than 0.5 minimum average maintained horizontal foot-candles being reflected onto adjacent properties.
3. No artificial light or reflecting device shall be used where such will interfere with, compete for attention with, or may be mistaken for a traffic signal.
4. No illumination utilizing red, green, or yellow lights, or a combination thereof, shall be utilized if such sign interferes with the effective visibility of any adjacent traffic signal or if such sign is located adjacent to a roadway where such illumination might give the appearance or impression of a traffic signal.
5. No illumination involving flashing or movement, or causing the illusion of movement by reason of the lighting arrangement shall be permitted.
6. Lighting for signs shall not operate between 12:00 Midnight and 5:00 AM., prevailing local time.

Section 801 OFF-PREMISES SIGNS PERMITTED IN ALL DISTRICTS

No sign shall be used for display or advertising except that pertaining to the use conducted on the property upon which such sign is erected except as follows:

A. PERMANENT OFF-PREMISES SIGNS:

1. Signs indicating the location and direction of premises available for or in the process of development, provided said development project is on a land parcel greater than two acres within the Borough, but not erected upon such premises, and having inscribed thereon the name of the Owner, Developer, Builder, or Agent may be erected and maintained in any Zoning District provided:
 - a. The gross surface area of such sign shall not be in excess of sixteen (16) square feet.
 - b. No more than two (2) such signs shall be erected for each property available for, or in the process of, development. Minimum spacing between such signs shall be one sign per seven-hundred fifty (750) lineal feet of street frontage.
 - c. Such signs shall not be reflective or illuminated.
 - d. Such signs shall be removed within one (1) year from the date of the issuance of the permit to erect said sign.
 - e. All such signs shall be self-supporting.
2. A Billboard may be permitted as a Special Exception only within the I-P Zoning District pursuant to the standards and criteria set forth below:
 - a. The minimum front, side, and rear yard requirements applying to a principal use as set forth within a zoning district in which the Billboard is to be located shall apply to each Billboard structure.
 - b. The maximum lot coverage as specified with a zoning district shall apply to any lot upon which a Billboard structure is located and shall be cumulative including any other structures and buildings on the same lot therewith.
 - c. A Billboard shall have a maximum allowable Gross Surface Area of 750 square feet per Sign Face. A Billboard shall have a maximum of two Sign Faces per Billboard structure. However, the Gross Surface Area of each Sign Face shall not exceed the 750 square foot maximum. The Billboard structure shall have Sign Faces placed back to back or in a V-shaped configuration on a single Billboard structure.

- d. The Billboard's Gross Surface Area shall not exceed 20 feet in total height or 60 feet in total length.
- e. A Billboard structure shall have a maximum height above the curb of the roadway from which they are intended to be viewed of thirty-five (35) feet. However, the height of a Billboard structure oriented to a depressed roadway shall be measured from the grade at the base of the Billboard.
- f. A maximum of two Billboard structures shall be erected on a single lot of record at a minimum spacing of 750 feet between structures. There shall be no more than (2) Billboard structures per lot. Billboards erected upon different lots of record on the same side of a public street or highway must maintain a minimum spacing of 750 feet between structures. Required spacing shall be measured from a point perpendicular to the center most point of the Billboard structure to the front lot line parallel to center line of the roadway to which the Billboard is oriented.
- g. A Billboard shall not be erected within R-1, R-2, R-3 or the C-1 and C-2 Zoning Districts or within 200 feet of any district zoned R-1, R-2, or R-3. Required spacing shall be measured from a point perpendicular to the center most point of the Billboard structure along the front lot line parallel to center line of the roadway to which the sign is oriented.
- h. No Billboard shall be erected in such a manner as to block the view of the road or street from any existing sign, residential or non-residential structure.
- i. No Billboard shall be constructed within the clear site triangle of the public street or road it is situated on and shall not in any case obstruct or impede traffic safety.
- j. A Billboard structure shall be independently supported and have vertical supports of metal which are galvanized or otherwise treated to prevent rust and corrosion. The supports shall be capable of withstanding a minimum 60 mile per hour wind load. No Billboard shall be mounted on the roof or wall of a building or similar structure.

- k. The entire base of the Billboard structure shall be permanently landscaped with suitable shrubbery and/or bushes of minimum height of three feet placed in such a manner as to screen the foundation of the structure. Landscaping shall be maintained by the sign owner in an attractive and healthy manner in accordance with accepted conservation practices. Permanent landscaping shall form a base and backdrop to the advertising sign.
- l. All cuts and grading shall be in accordance with Borough requirements. No bare cuts are permitted on a hillside. All cuts or fills are to be permanently seeded or planted.
- m. A Billboard shall be properly maintained. A Billboard structure shall be entirely painted every three years. Every ten years the owner of the Billboard shall have a structural inspection made of the Billboard by a qualified Pennsylvania Registered Engineer or Architect. As a result of said inspection the owner of the Billboard shall provide to the Borough a certificate from the Engineer or Architect certifying that the Billboard is structurally sound. Annual inspections of the Billboard shall be conducted by the Borough to determine compliance with this section of the Zoning Ordinance. Those signs found to be in violation of this Ordinance shall be required to bring the Billboard into compliance with this Ordinance or to remove it within thirty (30) days upon proper notification by the Borough.
- n. A Billboard with display lighting shall be constructed so that they do not glare upon adjoining property and shall not exceed a maximum average maintained horizontal foot-candle of 0.5 upon the adjoining property. Display lighting shall not operate between 12:00 Midnight and 5:00 A.M., prevailing local time. No Billboard structure, Sign Face, or display lighting shall move, flash, or emit noise. No Display lighting shall cause distraction, confusion, nuisance, or hazard to traffic, aircraft, or other properties. The use of colored lighting is not permitted.

B. TEMPORARY OFF-PREMISES SIGNS:

- 1. Signs of a political nature in support of a candidate for Primary or General Election may be erected on real estate located in any Zoning District by the Owner or Owners of that property provided:
 - a. The gross surface area of such sign shall not exceed sixteen (16) square feet in all R-1, R-2, R-3 and C-2 Districts or thirty-two (32) square feet in all C-1 and I-P Districts.
 - b. The total height of such sign shall not exceed six (6) feet above adjacent ground grade.

ORD. 500

BOROUGH OF CONWAY
ORDINANCE NO. 500

AN ORDINANCE OF THE BOROUGH OF CONWAY,
COUNTY OF BEAVER AND COMMONWEALTH
OF PENNSYLVANIA, AMENDING CHAPTER 124
(ARTICLE VIII - SIGN REGULATIONS) OF THE
CONWAY BOROUGH CODE OF ORDINANCES WHICH
PERTAINS TO TEMPORARY OFF-PREMISES SIGNS.

WHEREAS, the Borough of Conway (hereinafter the "Borough") is a political subdivision created under the laws of this Commonwealth of Pennsylvania; and,

WHEREAS, Chapter 124 of the Borough's Code of Ordinances has incorporated therein a Zoning Ordinance; and

WHEREAS, Article VIII of that Zoning Ordinance is entitled Sign Regulations and Section 801, subsection (B) regulates Temporary Off-Premises Signs; and

WHEREAS, the Borough is desirous of amending these regulations to correspond with current state law;

THEREFORE, the Borough of Conway hereby acts this 20TH day of July, 2005 to amend Article VIII-Section 801(B) of the Borough's Code of Ordinances to read as follows:

B. TEMPORARY OFF-PREMISES SIGNS:

1. Signs of a political nature in support of a candidate for Primary or General Election may be erected on real estate located in any Zoning District by the Owner or Owners of that property provided:

- a. The gross surface area of such sign shall not exceed sixteen (16) square feet in all R-1, R-2, R-3 and C-2 Districts or thirty-two (32) square feet in all C-1 and I-P Districts.
- b. The total height of such sign shall not exceed (6) feet above adjacent ground grade.
- c. Only one (1) such sign shall be erected and maintained on each property unless such property fronts on more than one

8-5-A

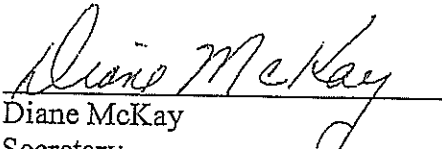
(1) public street, in which event one (1) such sign may be erected on each frontage.

- d. The owner of the property upon which such sign is erected shall be responsible for the placement, maintenance, and removal of such sign in accordance with the terms of this Article.
- e. No sign of a political nature shall be reflective or illuminated.
- f. All such signs of a political nature shall be self-supporting or wall mounted. Overhead signs, arched signs and banners are prohibited.
- g. Any such signs put on public right of ways must be removed subsequent to the election. The advertised candidate is responsible for removal of these signs.

ORDAINED AND ENACTED this 20th day of July,
2005.

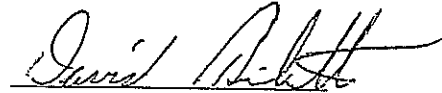
ATTEST

BOROUGH OF CONWAY


Diane McKay
Secretary


Greg Ritorto
President of Council

APPROVED and EXAMINED by the Mayor this date:



- ~~c. Only one (1) such sign shall be erected and maintained on each property unless such property fronts on more than one (1) public street, in which event one (1) such sign may be erected on each frontage.~~
 - ~~d. Such signs shall only be erected and maintained during the time period beginning four (4) weeks before an election and terminating one (1) week following that election.~~
 - ~~e. The owner of the property upon which such sign is erected shall be responsible for the placement, maintenance, and removal of such sign in accordance with the terms of this Article.~~
 - ~~f. No sign of a political nature shall be reflective or illuminated.~~
 - ~~g. All such signs of a political nature shall be self-supporting or wall-mounted. Overhead signs, arched signs, and banners are prohibited.~~
2. Signs directing attention to a special event or seasonal temporary principal use within the Borough may be erected and maintained on real estate located in any Zoning District with the permission of the Owner or Owners of such property provided:
- a. The gross surface area of such self-supporting or wall-mounted sign shall not exceed sixteen (16) square feet in all R-1, R-2, R-3 and C-2 Districts and thirty-two (32) square feet in all C-1 and I-P Districts. All banners shall be so sized that they will not obstruct or impair vision or traffic or be hazardous to public welfare.
 - b. The total height of such self-supporting or wall-mounted sign shall not exceed six (6) feet above adjacent ground grade. All banners shall be placed at a height and location which will not obstruct or impair vision or traffic, subject to final approval of the Borough.
 - c. Only one (1) such sign shall be erected and maintained on each property unless such property fronts on more than one (1) public street, in which event one (1) such sign may be erected on each frontage.
 - d. Such signs shall be erected and maintained during the time period beginning four (4) weeks before such special event or use and terminating one (1) week following the special event or cessation of use.
 - e. All such signs shall be self-supporting or wall-mounted. Banners may be permitted as a Conditional Use upon the approval of Borough Council.
 - f. Such signs shall not be reflective or illuminated unless permitted as a Conditional Use upon the approval of Borough Council.

- C. In addition to the above, the following requirements apply to all Off-Premises Signs erected within this Borough.
1. No signs shall be permitted on public lands except with the written approval of the Owner of the property.
 2. At no time will such signs be placed on any utility pole.
 3. All applicable General Regulations of this Article shall be adhered to in the erection and maintenance of all signs.

Section 802 ON-PREMISES SIGNS PERMITTED IN ALL DISTRICTS

On-premises signs permitted in all Zoning Districts include the following:

A. PERMANENT ON-PREMISES SIGNS:

1. Signs indicating the location and direction of premises available for or in the process of development, erected upon such premises, and having inscribed thereon the name of the Owner, Developer, Builder, or Agent may be erected and maintained provided:
 - a. The gross surface area of such sign shall not be in excess of sixteen (16) square feet in all R-1, R-2, R-3 and C-2 Districts or thirty-two (32) square feet in all C-1 and I-P Districts.
 - b. The total height of such sign shall not exceed six (6) feet above adjacent ground grade.
 - c. Not more than one (1) such sign shall be erected on each seven hundred fifty (750) lineal feet of street frontage.
 - d. Such sign shall not be reflective or illuminated.
 - e. Such sign shall be removed within one (1) year from the date of issuance of the permit to erect said sign. Said sign shall be self-supporting.
2. NAMEPLATE SIGNS: that indicate the name of the Owner or occupant of a residential use and the street number may be erected and maintained provided:
 - a. Non-illuminated nameplate signs shall not exceed a gross surface area of six (6) square feet.
 - b. Illuminated nameplate signs shall not exceed two (2) square feet in gross surface area and shall not be larger than twelve (12) inches by twenty-four (24) inches.
 - c. Nameplate signs shall be wall-mounted or self-supporting.
 - d. Only one (1) such sign shall be permitted per dwelling unit.
3. Street or road signs as required and erected by Local, State, and/or Federal Governmental Agencies or Authorities are permitted at a height of not less than seven (7) feet above the top level of established or proposed curb. Such signs may have a reflective surface. Signs guiding or controlling traffic movement may be permitted at a height to exceed seven (7) feet above adjacent grade level and may be illuminated if such is judged to be appropriate and necessary by the governmental agency or authority responsible for the erection and maintenance of said signs.

B. TEMPORARY ON-PREMISES SIGNS

1. Signs advertising the sale or rental of the premises upon which they are erected, when erected by the Owner or Broker or any other person interested in the sale or rental of such premises, may be erected and maintained provided:
 - a. The gross surface area of any such sign shall not be in excess of eight (8) square feet.
 - b. Not more than one (1) such sign shall be placed upon each property except when:
 - 1) A property fronts upon more than one (1) public street, in which event one (1) such sign may be erected on each frontage.
 - c. Such signs shall not be reflective or illuminated.
 - d. Such sign shall be self-supporting.
2. Signs bearing the word "sold" or the word "rented" with the name of the persons or corporate entity effecting the sale or rental may be erected and maintained when erected upon the premises effected provided that the conditions in subsection 1. hereof are complied with and such signs are removed within thirty (30) days of the date of the final sale or rental. Said sign shall be self-supporting.
3. Signs of mechanics, painters, and other artisans may be erected and maintained during the period such persons are performing work on the premises on which such signs are erected provided:
 - a. The gross surface area of such sign shall not be in excess of sixteen (16) square feet.
 - b. Such signs shall not be reflective or illuminated.
 - c. No more than one (1) such sign shall be placed upon each property.
 - d. Such signs when pertaining to remodeling or rehabilitation work being performed on an existing structure shall be displayed for a period not to exceed sixty (60) days in any one (1) calendar year.
 - e. Such signs when pertaining to the construction of a new structure or an addition to an existing structure shall be removed within fifteen (15) days of the completion of work or the issuance of an Occupancy Permit, as applicable, except as mandated by State or Federal regulations.
 - f. Said sign shall be self-supporting.
4. Signs for advertising of for-profit related activities shall be permitted as a temporary sign only on the interior of the store window glass and only when a maximum of thirty (30) percent of the total storefront window glass area is occupied by temporary signs. A temporary sign shall not be erected or displayed more than ninety (90) consecutive days in one calendar year.

C. In addition to the above, the following requirements apply to all on-premises signs permitted in all Districts within this Borough:

1. All applicable General Regulations of this Article shall be adhered to in the erection and maintenance of all signs.

Section 803 SIGNS IN THE R-1, R-2 AND R-3 DISTRICTS

In addition to the Off-Premises and On-Premises Signs permitted in all Zoning Districts of this Borough, the following types of permanent signs, and the associated requirements thereto, shall be permitted in the R-1, R-2 and R-3 Districts.

- A. **SIGNS ADVERTISING HOME OCCUPATIONS:** If a home occupation is permitted under the terms of the District and this Ordinance, a sign designating the name, address, and occupation of the Occupant(s) of the premises and including the logotype or trademark, if appropriate, of the practitioner may be erected and maintained provided:
1. The gross surface area of such sign shall not exceed four (4) square feet and shall not be larger than twenty-four (24) inches by twenty-four (24) inches.
 2. Only one (1) such sign shall be erected on each property.
 3. Such sign shall not be illuminated or reflective.
 4. Such sign shall not be an overhead sign. Only a wall-mounted or self-supporting sign is permitted.
- B. **IDENTIFICATION SIGNS/NON-PROFIT USES:** a sign located on the premises or building which serve only to tell the name or use of a public or non-profit facility; such as churches, schools, camps, hospitals, recreational place, municipal facility, or other institutions of similar nature when permitted under the terms of the District and this Ordinance; may be erected and maintained provided:
1. The gross surface area of any such sign shall not be in excess of thirty-two (32) square feet; except the gross surface area of any arched sign shall not be in excess of one hundred and twenty-five (125) square feet.
 2. Any self-supporting identification sign may be allowed up to one-third additional sign area over that allowed for such sign under the provisions of this Ordinance to be used for ornamentation of the upright or structural portion of the sign; provided that such ornamentation is designed in such a manner as to form an integral background element to the remainder of the sign and the design otherwise enhances the appearance of the sign.
 3. No more than two (2) such signs shall be placed on each property unless such property fronts upon more than one (1) public street, in which event two (2) such signs may be erected on each frontage.
 4. Such signs shall not be overhead signs. Only wall-mounted or self-supporting signs are permitted. Arched signs shall be permitted as a Conditional Use subject to approval by Borough Council.
 5. Self-supporting or wall-mounted signs may be reflective and may be illuminated in accordance with the provisions of this Ordinance. Arched signs may not be illuminated or reflective.
- C. **IDENTIFICATION SIGNS/FOR PROFIT USES:** all such signs located on the premises or building associated with a permitted, special exception or conditional use for-profit establishments, shall comply with the regulations in Section 804 of this Ordinance.
- D. **Trespassing sign, or sign indicating the private nature of a driveway or property, or restricting the use of a driveway or property, may be erected and maintained provided that the gross**

- surface area of any such sign shall not exceed two (2) square feet. Only one (1) such sign is permitted for every sixty (60) feet of public street frontage. Such sign shall not be an overhead sign. Such sign shall not be illuminated.
- E. Temporary signs advertising the sale of agricultural home grown products, where such sale is permitted under the terms of the District of this Ordinance, may be erected provided:
1. The gross surface area of such sign shall not be in excess of six (6) square feet.
 2. Not more than one (1) such sign shall be erected on each property.
 3. The sign shall be displayed only when such products are on sale.
 4. The sign shall not be illuminated or reflective.
- F. All signs, permanent or temporary, shall be constructed, erected, or so located that any portion of the sign structure shall be a minimum of ten (10) feet from the street or road right-of-way if no sidewalk exists and four (4) feet from the inside edge of the sidewalk if such sidewalk exists.
- G. All self-supporting signs shall not exceed a total height of eight (8) feet above established adjacent ground level. All such signs shall be erected in conjunction with or mounted on a permanent base which is designed, landscaped, and maintained in a sound and secure manner.
- H. All arched signs shall be located at a minimum of fourteen (14) feet six (6) inches clearance above the surface of the road or driveway and shall not exceed a maximum height of eighteen (18) feet above road or driveway subject to further requirements of the Pennsylvania Department of Transportation. All such arched signs shall be erected in conjunction with or mounted on two (2) permanent bases which are designed, landscaped, and maintained in a sound and secure manner.
- I. All wall-mounted signs shall be affixed to or displayed on the face of a building. Such signs shall not project or extend above or beyond the roof, parapet, or building facade of the structure upon which they are mounted and maintained in a sound and secure manner.
- J. In addition to the above, all sign requirements and restrictions listed and described in the General Regulations of this Article shall be strictly adhered to in the erection and maintenance of all signs.

Section 804 SIGNS PERMITTED IN THE C-1, C-2 and I-P DISTRICTS

In addition to the Signs permitted in all Zoning Districts of this Borough, the following types of permanent signs, and the associated requirements thereto, shall be permitted in the C-1, C-2 and I-P Districts.

- A. IDENTIFICATION SIGNS/NON-PROFIT USES: a sign located on the premises or building which serve only to tell the name or use of a public or non-profit facility; such as churches, schools, camps, hospitals, recreational place, municipal facility, or other institutions of similar nature where permitted under the terms of the District of this Ordinance; may be erected and maintained provided:
1. The gross surface area of any such sign shall not be in excess of thirty-two (32) square feet.

2. Any self-supporting identification sign may be allowed up to one-third additional sign area over that allowed for such sign under the provisions of this Ordinance to be used for ornamentation of the upright or structural portion of the sign; provided that such ornamentation is designed in such a manner as to form an integral background element to the remainder of the sign and the design otherwise enhances the appearance of the sign.
3. No more than two (2) signs shall be placed on each property unless such property fronts upon more than one (1) public street, in which event two (2) such signs may be erected on each frontage.
4. Such signs may be reflective and may be illuminated in accordance with the provisions of this Ordinance.
5. Such signs shall not be overhead or arched signs. Only wall-mounted or self-supporting signs are permitted.

B. BUSINESS IDENTIFICATION SIGNS/FOR-PROFIT USES: signs bearing the name of the occupant and the service offered or products sold or displayed may be erected and maintained on a land parcel when said land parcel contains only one (1) business enterprise provided:

1. No more than two (2) such signs may be placed on each property unless such property fronts on more than one (1) public street, in which event two (2) signs may be erected on each frontage.
 - a. A combination of self-supporting, wall-mounted, or overhead signs are permitted provided that the total number shall not exceed two (2) signs except as provided in item 1. above.
 - b. The gross surface area of an overhead sign shall not exceed twenty (20) square feet and shall not project beyond the building line.
 - c. The gross surface area of a wall-mounted sign shall not exceed one and one-half (1.5) square feet of gross sign surface area per one (1) lineal foot of building footage.
 - d. The gross surface area of a self-supporting sign shall be as follows:
 - 1) The gross surface area of such self-supporting sign located ten (10) feet to fifty (50) feet from a public street right-of-way shall not exceed fifty (50) square feet.
 - 2) The gross surface area of such self-supporting sign located more than fifty (50) feet from a public street right-of-way shall not exceed seventy-five (75) square feet.
 - 3) In no case shall any such sign be located less than ten (10) feet from the public street right-of-way.
2. Such signs may be illuminated in accordance with the provisions of this Ordinance.

C. BUSINESS IDENTIFICATION SIGNS/FOR PROFIT USES: signs bearing the name of the integrated commercial development, the commercial occupants, and the services offered or products sold or displayed may be erected and maintained on a parcel when said land parcel contains two or more business enterprises when such signs relate to or refer directly to the use(s) conducted on that premises provided:

1. Only one (1) self-supporting sign identifying only the name of the business development may be erected and maintained per land parcel unless such property fronts on more than one (1) street, in which event one (1) such sign may be erected on each frontage.
 - a. On the pole standard(s) erected to hold a self-supporting sign, the number of signs shall be limited to one (1) sign.
 - b. The gross surface area of such identification sign shall not exceed two (2) square feet of gross sign surface area per one (1) lineal foot of street frontage not to exceed three hundred (300) square feet in gross surface area.
2. Each business enterprise shall be permitted one (1) wall-mounted business identification sign not to exceed two (2) square feet of gross sign surface area per one (1) lineal foot of frontage of the building or portion of the building frontage occupied by said business enterprise.
3. As applicable, each business enterprise shall be permitted one (1) additional wall-mounted business identification sign for each auxiliary or accessory use. Such sign shall not exceed twenty (20) square feet of gross surface area.
4. Overhead signs shall not be permitted.
5. No combination of business enterprises may combine their interests to permit larger signs or increase the number of signs.
6. Such signs may be illuminated in accordance with the provisions of this Ordinance.

D. Each business may erect signs directing and guiding traffic and parking on private property but bearing no advertising matter. Such signs shall be limited to such information or instructions as necessary for the convenience of vehicular traffic in reaching such business.

1. Such signs shall not exceed a gross surface area of four (4) square feet.
2. Such signs shall not interfere with the clear sight triangle restrictions.
3. Such signs may be illuminated in accordance with the provisions of this Ordinance.

E. Trespassing sign, or sign indicating the private nature of a driveway or property, or restricting the use of a driveway or property, may be erected and maintained provided that the gross surface area of any such sign shall not exceed four (4) square feet. Only two (2) such signs are permitted per property unless such property fronts on more than one (1) street in which event two (2) such signs may be erected on each frontage. Such signs shall not be illuminated but may be reflective. Such signs shall not be overhead signs.

- F. Overhead signs shall be at least nine (9) feet high measured from the ground or pavement to the bottommost part of the sign.
- G. Arched signs shall not be permitted in the C-1, C-2 and I-P Districts.
- H. All self-supporting signs shall be erected in conjunction with or mounted on a permanent base which is designed, landscaped, and maintained in a sound and secure manner.
- I. In addition to the above, all sign requirements and restrictions in the General Regulations of this Article shall be strictly adhered to in the erection and maintenance of all signs.

ARTICLE IX
NONCONFORMING LOTS, USES, AND STRUCTURES

Section 900 DEFINITIONS

- A. A NONCONFORMING LOT: means a lot of record which was lawfully in existence prior to the enactment of this Ordinance or its amendment(s) but which does not comply with the regulations of this Ordinance or its amendment(s).
- B. A NONCONFORMING USE: means a use, whether of land, water body, or structure which was lawfully in existence prior to the enactment of this Ordinance or its amendment(s) but which does not comply with the regulations of this Ordinance or its amendment(s).
- C. A NONCONFORMING STRUCTURE: Means a building or structure or part thereof which lawfully existed prior to the enactment of this Ordinance or its amendment(s) but which does not comply with the regulations of this Ordinance or its amendment(s).

Section 901 PERMITTED CONTINUATION

A nonconforming lot, use, or structure may continue; be bought or sold, altered, restored, extended, or changed subject to the provisions of this Article even though such use or structure does not conform to the regulations established for that Zoning District in which it is located provided, however, that such lot, use, or structure shall otherwise be and remain in compliance with any other applicable codes and regulations.

Section 902 NONCONFORMING LOTS

Notwithstanding the limitations imposed by any other provisions of the Ordinance, the Zoning Officer may permit erection of a structure on any lot separately owned or under contract of sale and containing, at the time of the passage of this Ordinance, an area or a width smaller than that required for the Zoning District in which it is located. No structure shall be permitted within five feet (5) of a lot line except for the side yard in commercial zones when abutting another commercial use. In no case shall the total coverage of the lot by buildings or structures occupy more than sixty (60) percent of the total lot area. It shall be the responsibility of the Zoning Officer to review any permit under this Section with the Borough Planning Commission prior to the Zoning Officer issuing said permit and the Borough Planning Commission shall certify in its minutes that such permit application has been reviewed.

Section 903 UNSAFE STRUCTURE

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any portion of a building or structure declared unsafe by a proper authority.

Section 904 ALTERATIONS

A nonconforming building or structure may be altered or improved, provided such work does not exceed in the aggregate the fair market value of the building or structure at the time application therefore is made. The market value furnished by the assessor of the County shall be prima facie evidence of fair market value. This Section shall not apply to any alteration, improvement, or reconstruction undertaken to change a nonconforming building to a conforming building.

Section 905 RESTORATION

Nothing in this Ordinance shall prevent the reconstruction, repairing, rebuilding, and continued use of any nonconforming building or structure damaged by fire, collapse, explosion, or Act of God subsequent to the date of this Ordinance wherein the expense of such work does not exceed the fair market value of the building or structure at the time such damage occurred. Such reconstruction work shall commence within one (1) year of the date of damage thereto and shall be completed within two (2) years of the date of the casualty.

Section 906 EXTENSION

A nonconforming use or structure may be extended when permitted as a special exception in accordance with the following requirements:

1. The extension becomes an attached part of the main structure and does not utilize additional or adjoining land area other than the original parcel or lot.
2. The extension does not encroach upon the yard and height requirements of the Zoning District in which the nonconforming use or structure is presently located.
3. The extension is for the purpose of expanding the nonconforming use in existence at the time of the adoption of the Ordinance.
4. Adequate parking can be provided in conformance with this Ordinance to serve both the original plus expended use.
5. Extension of a lawful use to any portion of a nonconforming building or structure which existed prior to the enactment of the Ordinance shall not be deemed the extension of such nonconforming use.

Section 907 CHANGES

A nonconforming use of a lot or building may be changed to a use of an equal or more restricted classification when permitted as a special exception in accordance with the following requirements:

1. The change will not be contrary to the public interest.
2. The change will not adversely affect the use or value of the area adjacent to the premises for which application is made.
3. The change will encourage the most appropriate use of the premises for which application is made.
4. The change will prevent unnecessary hardship which would otherwise result because of special conditions affecting the premises for which application is made.
5. The change does not utilize additional or adjoining land area other than the premises for which application is made.
6. The change does not encroach upon the yard and height requirements of the district in which the nonconforming use presently is located.

Section 908 CONSTRUCTION APPROVED PRIOR TO ORDINANCE

Nothing herein contained shall require any change in plans, construction, or designated use of a building or structure for which a building permit has been issued and the construction of which shall have been diligently persued within two (2) months of the date of such permit, and the first floor of which shall have been completed within six (6) months of the date of the permit, and which entire building shall be completed according to such plans as filed within two (2) years from the date of this Ordinance.

Section 909 ABANDONMENT

A nonconforming use of a building or land which has been abandoned shall not thereafter be returned to such nonconforming use. A nonconforming use shall be considered abandoned as follow:

1. When the interest of the owner to discontinue the use is apparent; or
2. When the characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within ninety (90) days, unless other facts show intention to resume the nonconforming use; or
3. When a nonconforming use has been discontinued for a period of twelve (12) months; or
4. When it has been replaced by a conforming use; or
5. When it has been replaced by another nonconforming use of equal or more restrictive classification.
6. If restoration of any nonconforming use shall not have been commenced within a period of one year from any fire, collapse, and/or other Act of God which may have destroyed the same.

Section 910 DISTRICT CHANGES

Whenever the boundaries of a Zoning District shall be changed so as to transfer an area from one Zoning District to another Zoning District of a different classification, the foregoing provisions shall apply to any nonconforming uses existing therein.

Section 911 RELOCATION

If a nonconforming use or structure is moved for any reason from the lot upon which it was located at the date of the enactment of this Ordinance, it shall thereafter conform to the regulations of the Zoning District in which it is relocated.

Section 912 UNLAWFUL USE OR STRUCTURE NOT AUTHORIZED

Nothing in this Zoning Ordinance shall be interpreted as authorization for or approval of the continuance of the illegal use of a structure or premises or construction of a structure or building in violation of zoning regulations in existence at the time of enactment of this Zoning Ordinance.

Section 913 REGISTRATION

The Zoning Officer shall prepare a list registering all nonconforming structures and all nonconforming uses existing at the time of the legal enactment of this Ordinance. Said list shall include a general description of the nature and extent of the nonconformity and may include photographs as documentation. Further, said list shall be maintained for public use and information.

ARTICLE X

CONDITIONAL USES

Section 1000 POWERS AND DUTIES

Borough Council shall hear and decide all requests for Conditional Uses in those cases where this Ordinance indicates a Conditional Use may be granted subject to compliance with the standards and criteria prescribed within this Ordinance and conditions for development prescribed by Borough Council after review of the Planning Commission's recommendations of the proposed conditional use development.

Section 1001 PROCEDURES

- A. The Landowner shall file a request for the granting of a Conditional Use along with all maps, plans, and text which may be necessary to explain the development proposed and its compliance with the standards and criteria of this Ordinance and the Comprehensive Plan with the Borough Secretary. Said request shall be filed in triplicate on a form furnished by the Borough and shall be accompanied by a fee specified by the Borough Council. No request shall be officially received until the application form is completed in full and a fee is paid.
- B. Borough Council shall transmit one (1) copy of the request as well as all documentation to the Planning Commission for recommendations at least forty-five (45) days prior to the scheduled public hearing.
- C. Borough Council may schedule a public hearing with public notice within sixty (60) days of the filing of the request.
- D. Borough Council shall render a decision and inform the Applicant of said decision within forty-five (45) days of the hearing date, or in the case where no public hearing is scheduled, said decision shall be rendered within ninety (90) days of the filing of the request, unless upon mutual consent of Borough Council and Applicant it is agreed to continue the proceedings.

Section 1002 STANDARDS AND CRITERIA GOVERNING ALLOWANCES OF
 CONDITIONAL USES

- A. In addition to the standards and criteria specified elsewhere in this Ordinance, the following are hereby established as the general standards and criteria governing the allowance of Conditional Uses herein before authorized.
1. No use or structure shall be allowed which shall violate the spirit and intent of this Ordinance and its Community Development Goal and Objectives.
 2. The use or structure shall not involve any element or cause any conditions that may be dangerous, injurious, or noxious to any other party, person, or premises and shall comply with the performance standards hereinafter set forth.

3. The use or structure shall avoid and/or satisfy every reasonable consideration made for the safety and convenience of the traveling public, including without limitations; safe ingress and egress, and the avoidance of hazard and congestion to travel and transportation. To effectuate this standard Borough Council, in granting allowance of any use or structure hereunder, may impose upon the Applicant and/or Developer the cost and expense of off-site improvements including without limitation: traffic signals, street lighting, road-widening, sidewalks, public transit stop facilities (shelters), and other street and highway related improvements.
4. The use or structure shall avoid and/or satisfy every reasonable consideration made for the health and safety of the general public, including without limitation, safe water supply and sanitary sewage collection and treatment facilities.
5. The use or structure shall avoid and/or satisfy such resulting impact upon neighboring uses as may affect the health and safety of persons. To effectuate this standard Borough Council, in granting allowance of any use or structure hereunder, may impose upon the Applicant and/or Developer the cost and expense of providing off-site improvements, including without limitations, encased storm water facilities and appurtenances, street lighting, sanitary sewer collection and treatment facilities, community firefighting apparatus and equipment which may be required for any unusual use or activity, recreational sites and/or facilities, and other public facilities and/or services deemed necessary.

B. All Conditional Uses and structures shall comply with the following performance standards:

1. **FIRE PROTECTION:** Any activity involving the handling or storage of flammable, explosive, or other hazardous materials shall be subject to the requirements and review of the Borough's Fire Department. Necessary fire prevention and fire-fighting equipment shall be readily available to the activities noted above.
2. **ELECTRICAL DISTURBANCES:** No activity shall cause electrical disturbances adversely affecting radio or television reception in the Borough.
3. **NOISE:** No activity shall cause such noise as to interfere with the use and enjoyment of neighboring property. Noise pollution shall be subject to the standards which may from time to time be established or recommended by the Pennsylvania Department of Environmental Resources (Penn DER).
4. **SMOKE AND AIR POLLUTION:** The maximum amount and type of smoke and emissions permissible shall be subject to the standards which may from time to time be established or recommended by the Pennsylvania Department of Environmental Resources. No incineration of any waste material will be permitted unless by other Ordinances of the Borough.

5. ODORS: No malodorous gas or matter shall be permitted which is discernible on any adjoining lot or property. No such odorous gas and emissions shall endanger lives or property in the Borough.
 6. VIBRATIONS: Vibrations detectable without instruments on neighboring property in any Zoning District shall not be permitted. In addition, any vibrations shall be subject to the standards which may from time to time be established or recommended by the Pennsylvania Department of Environmental Resources.
 7. GLARE: Lighting devices which produce dangerous direct or reflected glare on thoroughfares shall not be permitted. Lighting devices shall conform to the regulations of the Borough.
 8. No erosion by wind or water shall be permitted which will carry objectionable substances onto adjoining properties.
 9. No water pollution shall be permitted and water quality shall be subject to the standards which may from time to time be established or recommended by the Pennsylvania Department of Environmental Resources.
- C. In order to determine whether a proposed use or building will conform to the safe levels of these performance standards, Borough Council may require a report of the Applicant to be prepared by qualified consultants. The cost of consulting services to review these reports shall be borne by Borough Council.
- D. In granting a Conditional Use, Borough Council may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may be deemed necessary to implement the purposes of this Ordinance.

ARTICLE XI
ZONING HEARING BOARD

Section 1100 CREATION, APPOINTMENT, AND REMOVAL

- A. CREATION: The Borough Council shall appoint a Zoning Hearing Board.
- B. MEMBERSHIP: The membership shall consist of either three (3) or five residents of the Borough appointed by the Borough Council.
1. The term of office for a three (3) member board shall be three (3) years and shall be so fixed that the term of office of one (1) member shall expire each year.
 2. The term of office for a five (5) member board shall be three (3) years and shall be so fixed that the term of office of no more than two (2) members of a five (5) member board shall expire each year and in the initial appointment of the two (2) additional members, one (1) shall be appointed for a one (1) year term, and one (1) shall be appointed for a two (2) year term.
 3. If a three (3) member board is changed to a five (5) member board, the members of the existing three (3) member board shall continue in office until their term of office would expire under prior law and ordinances. The Borough Council shall appoint two (2) additional members to the Board with terms scheduled to expire in accordance with Section B-2 above.
 4. A five (5) member board shall not be changed to a three (3) member board except upon an affirmative vote on the question by a majority of the electors in the Borough voting thereon at a referendum held at the municipal or General election prior to a year in which the terms of two (2) members on the Zoning Hearing Board expire.
 5. Members of the Zoning Hearing Board shall hold no other office in the Borough except that not more than one (1) member of the Zoning Hearing Board may also be a member of the Planning Commission.
- C. VACANCY: The Zoning Hearing Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies on the Zoning Hearing Board shall be only for the unexpired portion of the term.
- D. REMOVAL OF MEMBERS: Any Zoning Hearing Board member may be removed for malfeasance, misfeasance, or nonfeasance in the office or for other just cause by a majority vote of the Borough Council taken after the member has received fifteen (15) days advance notice of the intent to take such vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

Section 1101 ORGANIZATION OF ZONING HEARING BOARD

- A. OFFICERS: The Zoning Hearing Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves.
- B. QUORUM: For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all members of the Zoning Hearing Board except when member(s) of the Zoning Hearing Board are disqualified to act in a particular matter, the remaining member(s) may act for the Zoning Hearing Board.
- C. HEARING OFFICER: The Zoning Hearing 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 Zoning Hearing Board.
- D. PROCEDURES: The Zoning Hearing Board may make, alter, and rescind rules and forms for its procedure, consistent with Ordinances of the Borough and laws of the Commonwealth of Pennsylvania.
- E. FILES AND ANNUAL REPORT: The Zoning Hearing Board shall keep full public records of its business, and shall submit a report of its activities to the Borough Council once a year.

Section 1102 EXPENDITURES FOR SERVICE

Within the limits of funds appropriated by the Borough Council, the Zoning Hearing 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.

Section 1103 HEARINGS

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

- A. PARTIES: The parties to the hearing shall be the Borough Council, the Planning Commission, the Zoning Officer, the Zoning Hearing Board, the Applicant, any person affected by the application who has made timely appearance of record before the Zoning Hearing Board, and any person(s) including civic and community organizations permitted by the Zoning Hearing Board to appear. All persons who wish to be considered parties shall enter appearances in writing to the Zoning Hearing Board for that purpose.

- B. APPLICATIONS: Applications for a hearing before the Zoning Hearing Board and decisions and/or findings of the Zoning Hearing Board shall be filed with the Borough Secretary. Applicants shall file their request upon forms to be furnished by the Zoning Hearing Board and pay a fee in accordance with the schedule fixed by resolution by the Borough Council. No application shall be considered officially received until the application is completed in full including requested documentation and/or illustrations and the fee is paid.
- C. NOTICE OF HEARING: Notice of the hearing shall be given to the public, the Applicant, the Zoning Office, the Borough Council, the Planning Commission, and to any person who has made timely request for the same. A notice of the hearing shall be given to other persons at such a time and in such manner as the Borough Council or the Zoning Hearing Board shall designate. In addition, a notice of said hearing shall be conspicuously posted on the affected tract or tracts of land or water body.
- D. CONDUCT OF HEARING:
1. The hearing shall be conducted by the Zoning Hearing Board or the Hearing Officer. The final decision shall be made by the Zoning Hearing Board, but the parties may waive said final decision by the Zoning Hearing Board and accept the final decision of the Hearing Officer.
 2. The hearing shall commence not later than sixty (60) days after the application has been officially received and fee has been paid.
 3. The presiding official of the Zoning Hearing Board shall have the 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.
 4. The parties 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.
 5. Formal rules of evidence shall not apply but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
 6. The Zoning Hearing Board or the Hearing Officer shall keep a stenographic record of the proceedings. A transcript of the proceedings as well as copies of graphic or written material received in evidence shall be made available to any party at cost.

7. The Zoning Hearing Board 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 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 representatives unless all parties are given an opportunity to be present.
8. The Zoning Hearing Board or the Hearing Officer may continue the hearings provided, however, that in any event, the public hearing or hearings shall be concluded within sixty (60) days after the date of the first public hearing.

Section 1104 RENDERING OF DECISIONS

- A. **TIME LIMIT:** The Zoning Hearing Board or the Hearing Officer shall render a written decision on the application within forty-five (45) days after the date of the last hearing. In the case where said decision is that of the Hearing Officer, the Zoning Hearing Board's decision shall be entered no later than forty-five (45) days after the decision of the Hearing Officer.
- B. **CONTENTS OF THE DECISION:**
 1. Each decision shall be accompanied by findings of fact and conclusions.
 2. Conclusions based on any provision of this Ordinance, the Official Zoning Map, the Pennsylvania Municipalities Planning Code, any Borough Ordinance, Rule, or Regulation, or Laws of the Commonwealth of Pennsylvania shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in light of the facts found.
- C. **HEARING OFFICER'S DECISION OR FINDINGS:** If the hearing is conducted by a Hearing Officer and there has been no stipulation that his decision is final, the Zoning Hearing Board shall make his report and recommendations available to the parties, and the parties shall be entitled to make written representation thereon to the Zoning Hearing Board prior to a final decision.
- D. **FAILURE TO ACT:** When the Zoning Hearing Board fails to hold the required hearing within sixty (60) days from the date the Applicant's application was officially received, or when the Zoning Hearing Board fails to render the decision within the forty-five (45) days after the last hearing, a decision shall be deemed to have been rendered in favor of the Applicant unless the Applicant has agreed in writing to an extension of time.

E. AVERTISEMENT OF THE DECISION:

1. A copy of the final decision shall be delivered to the Applicant personally or mailed to him not later than the day following the date of the decision.
2. To all other parties who have filed their name and address with the Zoning Hearing Board not later than the last day of the hearing, the Zoning Hearing Board shall provide by mail or otherwise, brief notice of the decision and a statement of the place at which the full decision may be examined.
3. Additional notice or notices shall be given as prescribed by the rules of the Zoning Hearing Board.
4. Where a decision has been rendered in favor of the Applicant because of the failure of the Zoning Hearing Board to meet or render a decision or findings, the Zoning Hearing Board shall give public notice of said decision within (10) days in the same manner as provided in the Notice of Hearing Section.

Section 1105 ZONING HEARING BOARD'S FUNCTION

- A. APPEAL FROM THE ZONING OFFICER: The Zoning Hearing Board shall hear and decide appeals where it is alleged by the Applicant that the Zoning Officer has failed to follow prescribed procedures or has misinterpreted or misapplied any provision of this Ordinance or the Official Zoning Map or any valid rule or regulation governing the action of the Zoning Officer. Nothing contained herein shall be construed to deny the Applicant the right to proceed directly in court.
- B. CHALLENGE TO THE VALIDITY OF THIS ORDINANCE OR THE OFFICIAL ZONING MAP:

1. The Zoning Hearing Board shall hear challenges to the validity of this Ordinance or the Official Zoning Map except when:
 - a. The challenge is of an alleged defect in the process of enactment or adoption of this Ordinance and the Official Zoning Map. Such challenge/appeal shall be taken directly to the Court and filed not later than thirty (30) days from the effective date of this Ordinance or Map.
 - b. The challenge to the validity of this Ordinance or Map is submitted to the Borough Council together with a curative amendment.
2. In all such challenges the Zoning Hearing Board shall take evidence and make a record of the findings. At the conclusion of the hearing the Zoning Hearing Board shall decide all contested questions and shall make findings on all relevant issues of fact which shall become a part of the record on appeal to the Court.

- C. VARIANCE: The Zoning Hearing Board shall hear requests for Variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the Applicant.
1. Application: The landowner shall file a written request for a Variance upon a form furnished by the Zoning Hearing Board and shall pay a fee in accordance with the schedule fixed by resolution by the Borough Council. No application shall be considered officially received until the application is completed in full and the fee is paid.
 2. Hearing: The hearing shall be conducted in accordance with this Article.
 3. Grant of Variance: The Zoning Hearing Board may grant a Variance provided the following findings are made where relevant in a given case.
 - a. That the unnecessary hardship is due to the unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical, or other physical conditions peculiar to the particular property, and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or district in which the property is located.
 - b. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a Variance is therefore necessary to enable the reasonable use of the property.
 - c. That such unnecessary hardship has not been created by the 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, nor will violate the spirit and intent of this Ordinance and its Community Development Goal and Objective.
 - 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.

4. Safeguards and Conditions: In granting a Variance the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem to implement the purposes of this Ordinance.
5. Application of Variance: A Variance applies only to that particular piece of property for which it is granted.

D. SPECIAL EXCEPTIONS: The Zoning Hearing Board shall hear and decide requests for Special Exceptions in those cases where this Ordinance indicates a Special Exception may be granted subject to compliance with the expressed standards and criteria within the specific Zoning District for which the Special Exception is to be granted and the general standards and criteria of this Subsection D.

1. Application: The landowner shall file a written request for a Special Exception upon a form furnished by the Zoning Hearing Board and shall pay a fee in accordance with the schedule fixed by resolution of the Borough Council. No application shall be considered officially received until the application is completed in full and the fee is paid.
2. Hearing: The hearing shall be conducted in accordance with this Article.
3. Grant of Special Exception: The Zoning Hearing Board may grant a Special Exception provided the following general standards and criteria govern the grant as well as those that apply to the specific special exception.
 - a. No use or structure shall be allowed which shall violate the spirit and intent of this Ordinance and its Community Development Goal and Objectives.
 - b. The use or structure shall not involve any element or cause any conditions that may be dangerous, injurious, or noxious to any other party, persons, or premises and shall comply with the performance standards hereinafter set forth.
 - c. The use or structure shall avoid and/or satisfy every reasonable consideration made for the safety and convenience of the traveling public, including without limitations; safe ingress and egress, and the avoidance of hazard and congestion to travel and transportation. To effectuate

this standard the Zoning Hearing Board in granting allowance of any use or structure hereunder, may impose upon the Applicant and/or Developer the cost and expense of off-site improvements including without limitation: traffic signals, street lighting, road-widening, sidewalks, public transit stop facilities (shelters), and other street and highway related improvements.

- d. The use or structure shall avoid and/or satisfy every reasonable consideration made for the health and safety of the general public, including without limitation, safe water supply and sanitary sewage collection and treatment facilities.
- e. The use or structure shall avoid and/or satisfy such resulting impact upon neighboring uses as may affect the health and safety of persons. To effectuate this standard the Zoning Hearing Board, in granting allowance of any use or structure hereunder, may impose upon the applicant and/or developer the cost and expense of providing off-site improvements, including without limitations, encased storm water facilities and appurtenances, street lighting, sanitary sewer collection and treatment facilities, community fire-fighting apparatus and equipment which may be required for any unusual use or activity, recreational sites and/or facilities, and other public facilities and/or services deemed necessary.
- f. All special exception uses and structures shall comply with the following performance standards.
 - 1) FIRE PROTECTION: Any activity involving the handling or storage of flammable, explosive, or other hazardous materials shall be subject to the requirements and review of the Borough's Fire Department. Necessary fire prevention and fire-fighting equipment shall be readily available to the activities noted above.
 - 2) ELECTRICAL DISTURBANCES: No activity shall cause electrical disturbances adversely affecting radio or television reception in the Borough.

- 3) NOISE: No activity shall cause such noise as to interfere with the use and enjoyment of neighboring property. Noise pollution shall be subject to the standards which may from time to time be established or recommended by the Pennsylvania Department of Environmental Resources (Penn DER).
 - 4) SMOKE AND AIR POLLUTION: The maximum amount and type of smoke emissions permissible shall be subject to the standards which may from time to time be established or recommended by the Pennsylvania Department of Environmental Resources. No incineration of any waste material will be permitted unless by other Ordinances of the Borough.
 - 5) ODORS: No malodorous gas or matter shall be permitted which is discernible on any adjoining lot or property. No such odorous gas and emissions shall endanger lives or property in the Borough.
 - 6) VIBRATIONS: Vibrations detectable without instruments on neighboring property in any Zoning District shall not be permitted. In addition, any vibrations shall be subject to the standards which may from time to time be established or recommended by the Pennsylvania Department of Environmental Resources.
 - 7) GLARE: Lighting devices which produce dangerous direct or reflected glare on thoroughfares shall not be permitted. Lighting devices shall conform to the regulations of the Borough.
 - 8) No erosion by wind or water shall be permitted which will carry objectionable substances onto adjoining properties.
 - 9) No water pollution shall be permitted and water quality shall be subject to the standards which may from time to time be established or recommended by the Pennsylvania Department of Environmental Resources.
- g. In order to determine whether a proposed use or building will conform to the safe levels of these performance standards, the Zoning Hearing Board may require a report of the Applicant to be prepared by qualified consultants. The cost of consulting services to review these reports shall be borne by the Zoning Hearing Board.

4. In granting a Special Exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes of this Ordinance.

E. UNIFIED APPEALS: Where the Zoning Hearing Board has jurisdiction over a zoning matter, the Zoning Hearing Board shall also hear all appeals which an Applicant may elect to bring before it with respect to any Borough Ordinance or requirement pertaining to the same development plan or development. In any such case, the Zoning Hearing Board shall have no power to pass upon the nonzoning issues, but shall take evidence and make a record thereon. At the conclusion of the hearing, the Board shall make findings on all relevant issues of fact which shall become part of the record on appeal to the Court.

Section 1106 PARTIES APPELLANT BEFORE THE BOARD

Appeals from a decision of the Zoning Officer and proceedings to challenge the validity of this Ordinance shall be filed by the landowner affected, any officer or agency of the Borough, or any person aggrieved. Request for a Variance, for a Special Exception and Unified Appeals shall be filed by the landowner or any tenant with the permission of such owner.

Section 1107 TIME LIMITATIONS: PERSONS AGGRIEVED

Any person seeking to limit or secure reversal of an approved application for a permit shall file such proceeding with the Zoning Hearing Board no later than thirty (30) days after such application has been approved 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.

Section 1108 STAY OF PROCEEDINGS

Upon filing of any appeal and during its pendency before the Zoning Hearing Board, all land development in question and all official action thereunder shall be stayed. If the Zoning Officer or any other appropriate agency or body certifies to the Zoning Hearing Board that such stay would cause imminent peril to life or property, the land development or official action shall not be stayed unless by a restraining order. Said restraining order may be granted by the Zoning Hearing Board or by the Court having jurisdiction over zoning appeals on petition after notice to the Zoning Officer or other appropriate agency or body.

When persons other than the Applicant for a land development file with the Zoning Hearing Board proceedings designed to reverse or limit the approval of the land development, the Applicant may petition the Court having jurisdiction over zoning appeals to order such persons to post bond as a condition to continue the proceedings before the Zoning Hearing Board. The question of whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the Court.

Section 1109 APPEAL

Any action taken or decision rendered under this Article may be appealed to the County Court of Common Pleas by any party aggrieved by said action or decision under the provisions and procedures provided in the Pennsylvania Municipalities Planning Code.

ARTICLE XII
ZONING ADMINISTRATION
AND ENFORCEMENT

Section 1200 ZONING OFFICER

ZONING ADMINISTRATION: This Ordinance shall be administered by the Zoning Officer. The Borough Council shall appoint a Zoning Officer who shall not hold any elective office in the Borough. The Borough Council may, from time to time, appoint Deputy Zoning Officers who shall serve under the supervision of the Zoning Officer. The Borough Council shall fix the compensation to be paid to the Zoning Officer and such Deputy Zoning Officers. The Zoning Officer and Deputy Zoning Officers shall serve at the pleasure of the Borough Council.

POWERS AND DUTIES: The Zoning Officer shall administer this Ordinance in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to the requirements of this Ordinance. Within this power, the Zoning Officer shall have duties as follows:

1. Receive the application and review application for completeness and compliance.
2. Notify Applicants of deficiencies in application(s) and request additional information.
3. Declare the application officially received.
4. Distribute applications to the various Borough agencies and Boards for reviews and/or approvals.
5. Maintain file on review processing.
6. Receive review comments and approvals from the various Borough agencies and Boards.
7. Issue the permit after all reviews, comments, and approvals have been received.
8. Make inspection(s).
9. Issue stop work order(s).
10. Issue denials for permits.
11. Issue Occupancy Permits only after all construction and development conforms to the requirements of this Ordinance and other related Borough Ordinances and, if applicable, all conditions imposed by the Zoning Hearing Board have been complied with.
12. The Zoning Officer shall identify and register nonconforming uses and nonconforming structures and submit his findings to the Borough's Planning Commission.
13. Once every three (3) months, the Zoning Officer shall submit to the Borough Council a written statement of all Building Permits, Occupancy Permits, Sign Permits, Temporary Use Permits, and all notices and orders issued.

14. The Zoning Officer shall meet with the Planning Commission once every three (3) months at the Planning Commission's regularly scheduled meeting to keep the Commission abreast of matters concerning land development in the Borough, and to discuss problems in administering this Zoning Ordinance or recommend changes to this Zoning Ordinance.

15. An official record shall be kept of all business and activities of the office of the Zoning Officer specified by provisions of this Zoning Ordinance, and all such records shall be open to public inspection at all appropriate times.

Section 1201 COORDINATION WITH OTHER BOROUGH REQUIREMENTS AND PERMITS, STATE AND FEDERAL REQUIREMENTS AND PERMITS

A. In all cases, any application for a permit of any of the types heretofore described in this Ordinance shall be decided not only on the basis of compliance with this Zoning Ordinance, but also on the basis of compliance with all other applicable Borough Ordinances and all other applicable rules and regulations of the various Borough authorities and agencies which might be concerned, as well as State and Federal requirements and permits.

Section 1202 BUILDING PERMIT

A. REQUIREMENT: A Building Permit shall be required prior to the:

1. Placement, Erection, or Construction of a building or structure including a swimming pool.
2. Exterior Alteration or Reconstruction of a building or structure.
3. Addition to a building or structure.
4. Relocation or removal of a building or structure.

It shall be unlawful for any person or persons to commence work for any building activity noted herein until a Building Permit has been duly issued thereto.

B. EXCEPTIONS: No Building Permit shall be required in cases of:

1. Normal maintenance activities.
2. For alterations which do not change the exterior dimension(s) of a building.

C. COORDINATION WITH OTHER PERMITS: No Building Permit shall be issued until:

1. Pennsylvania Department of Labor and Industry Approval (Pennsylvania Fire and Panic Act of 1927) has been obtained, if applicable.
2. An Erosion Control Permit has been issued by the County Soil Conservation District Office or Pennsylvania Department of Environmental Resources, if applicable, and all fees connected therewith, have been paid for in full and all work thereunder has been certified to have been fully completed in conformity with the requirements of said permit.

3. A Borough Subdivision Plan (as required under the Subdivision Ordinance) has been finally approved, and all fees including supplemental fees connected therewith, have been paid for in full, if applicable.

4. The Municipal Authority Approval has been obtained and all tapping supplemental fees connected therewith have been paid for in full. Or, if applicable, a safe, potable water supply approved by the Pennsylvania Department of Environmental Resources has been obtained. And also, if applicable, a permit for an on-site sewage disposal system has been obtained from the Borough's Sewage Enforcement Office in accordance with Pennsylvania Act 537, as ammended, and the Rules and Regulations of the Pennsylvania Department of Environmental Resources and all fees connected therewith, have been paid in full.
5. Pennsylvania Department of Community Affairs approval in connection with the Building Energy Conservation Act, PA, Act 222 of 1980 has been obtained, if applicable.
6. A Pennsylvania Department of Transportation Highway Occupancy Permit to authorize encroachment upon a State right-of-way, has been issued, if applicable, and all fees connected therewith, have been paid for in full.
7. Other applicable Federal, State, County, and Local Permits and/or approvals have been obtained.

D. APPLICATION FOR PERMIT

1. All requests for Building Permits shall be made in writing by the Owner of his authorized agency on a form furnished by the Borough and shall include a statement of the use as intended of the building; a Site Plan and a Building Plan, both prepared in triplicate and drawn to scale; and copies of all required County, State, and/or Federal Permits as approved by the appropriate agency.
 - a. Site Plan: All applications for a Building Permit shall be accompanied by three (3) copies of a site plan, drawn to scale, showing: key location map; graphic scale, North arrow, closest intersecting public road; exact dimensions and total acreage of the lot(s) or parcel; zoning of lots and zoning of all abutting properties; exact location and exterior dimensions of the existing and proposed building(s) or other structure(s); exact location and area of all existing and proposed water courses, drainage ways, rights-of-ways and easements; exact location of existing and proposed driveways, streets, and roads within, adjacent, and opposite of the lot(s) or parcel; exact location of existing and proposed off-street parking, loading and pedestrian movement facilities; exact location of existing and proposed visual screening; exact location of existing and proposed building line(s) and all dimensions of front, sides, and rear yards

for all principal and accessory uses; and any other additional data as may be deemed necessary and be requested by the Planning Commission, Borough Council, or the Zoning Officer.

- b. Building Plan: All applications for a Building Permit shall be accompanied by three (3) copies of a building plan, drawn to scale, showing: exact exterior dimensions to include width, depth, and overall height; elevation above sea level of the lowest floor for all buildings and structures within an identified Federal Flood Hazard Area; type of construction for each building or structure to include foundation, interior and exterior walls, roof, electrical, plumbing and heating; number of rooms, use of rooms, and square footage of interior floor areas; and any other additional data as may be deemed necessary and be requested by the Planning Commission, Borough Council, or the Zoning Officer.
- c. The Zoning Officer may require an Applicant to furnish a survey of the lot by a Pennsylvania Registered Land Surveyor when complete and accurate information is not readily available from existing records.
- d. The Zoning Officer may require additional data to determine compliance with this Ordinance.
- 2. It shall be the duty of the Zoning Officer to review the application to determine if all necessary information has been submitted and request more information of the Applicant, or officially receive the application for review by the appropriate Borough agencies.
- 3. Unless such requirement is waived by the Borough Council, all applications for a Building Permit shall be accompanied by a fee, to be based upon the fee schedule of the Borough.

E. PERMIT:

- 1. Application for a Building Permit concerning the erection or structural alteration of an individual single-family detached dwelling and associated accessory use(s) shall be reviewed by the Borough Zoning Officer.
- 2. Applications for a Building Permit concerning any other building activity shall be reviewed by the Planning Commission. The Building Permit shall not be issued by the Zoning Officer until receipt of review comments of the Planning Commission.
- 3. Permit Approval: Upon approval of the request for a Building Permit, one (1) copy of the site plan and one (1) copy of the building plan shall be returned to the Applicant along with one (1) copy of the Building Permit which shall be publicly displayed at the building site during the course of construction of such site. One (1) copy of such permit shall be kept on file in the Borough Office.

which shall be publicly displayed at the building site during the course of construction of such site. One (1) copy of such permit shall be kept on file in the Borough Office.

4. Permit Denied: In the event of a denial, the Zoning Officer shall state in writing the reason(s) for such denial including the citation of the specific section(s) of this or other pertinent Ordinances.
5. Posting of Building Permit: The Building Permit issued by the Zoning Officer shall be prominently posted upon the permitted premises prior to work being undertaken to place, erect, construct, alter, reconstruct, or add to a building or structure. The failure or neglect of the Applicant to prominently post the permit and maintain the same throughout the duration of the permitted work shall be a violation of this Ordinance. Duplicate permits shall be issued by the Zoning Officer without charge. Loss, destruction, or defacement of any posted permit must be promptly reported to the Zoning Officer within twenty-four (24) hours after such event or casualty; Sundays, and legal holidays excepted.
6. Expiration of Building Permits: All Building Permits shall expire upon completion of the work authorized therein to be done or within one (1) year from the issuance thereof, whichever event shall first occur. Permits may be issued for periods in excess of one (1) year upon cause shown. A Building Permit shall expire if the work authorized therein to be done is not commenced within one hundred eighty (180) days from the date of issuance thereof. Renewal of such permit will be granted only upon reapplication for the permit.

F. INSPECTION: The Zoning Officer, or his fully appointed representative, shall make the following minimum number of inspections on property for which a permit has been issued.

1. Prior to the beginning of construction: The Applicant shall notify the Zoning Officer when the area has been staked out indicating the dimensions of proposed construction. The Zoning Officer shall inspect the construction site. A record shall be made indicating the time and date of the inspection and the finding of the Zoning Officer in regard to conformance of the proposed construction with plans submitted with the application for the building permit.
 - a. If the indicated dimensions and/or location of the proposed construction does not conform to the application, a written notice of a violation shall be issued by the Zoning Officer, and such violation shall be discontinued. Construction shall only proceed after proper correction of the violation and receipt of written notice from the Zoning Officer that the violation has been corrected.

2. At the completion of construction: The Applicant shall notify the Zoning Officer when construction is complete. The Zoning Officer shall inspect the site. A record shall be made indicating the time and date of the inspection; the findings of the Zoning Officer in regard to conformance to this Ordinance; and the opinion of the Zoning Officer in regard to the issuance of an occupancy permit.

Section 1203 OCCUPANCY PERMIT

A. REQUIREMENT: An Occupancy Permit shall be required prior to:

1. The occupancy and use of a new building or structure or where the exterior dimensions for a structure or use have been altered.
2. The occupancy and use of a building or structure that has been moved or relocated.
3. A change in the use of an existing building, structure, water body, or land area except to a use of the same type.
4. A change of a nonconforming use, building or structure.

B. APPLICATION FOR PERMIT:

1. All requests for an Occupancy Permit shall be made in writing, on a Borough furnished form; by the Owner, or other authorized agent and shall include a statement of the type of proposed occupancy intended for the building, land, or water body.
2. One (1) copy of a plat/plan showing lot dimensions and exact size and location of the building, use, and/or structure as certified by a Pennsylvania Registered Land Surveyor may be required to accompany a request for an Occupancy Permit. Such plat/plan requirement may be waived by the Zoning Officer when the capital value of new construction does not exceed \$1,500, when the occupancy involves a residential accessory use, or when the occupancy involves an existing building or structure for residential use only.
3. An Occupancy Permit, either for the whole or part of a new building or for the structural alteration of an existing building may be applied for coincident with the application for a Building Permit and shall be issued upon the completion of construction after inspection shows the same to be in conformance with the provisions of this Zoning Ordinance, and after review of the application by the necessary agencies.
4. An Occupancy Permit for a change of use in an existing building shall be applied for and shall be issued before any such building shall be changed in use.
5. It shall be the duty of the Zoning Officer to review the application to determine if all necessary information has been submitted to request more information of the Applicant, or officially receive the application.

6. Unless such requirement is waived by the Borough Council, all applications for an Occupancy Permit shall be accompanied by a fee to be based upon the fee schedule of the Borough.

C. PERMIT:

1. Applications for an Occupancy Permit shall be reviewed by the Zoning Officer. The Zoning Officer shall issue the findings or approval of the application.
2. Permit Issued: Upon approval of the request for an Occupancy Permit, one (1) copy of this permit shall be given to the Applicant, and one (1) copy of the permit shall be kept on file in the Borough Office.
3. Permit Denied: In the event of denial, the Zoning Officer shall forward to the Applicant a written statement containing the reason(s) for such denial.
4. Time Limitations: An Occupancy Permit shall remain valid for as long as the structure or building is used in the manner the permit has been issued for.

D. INSPECTION:

1. The Zoning Officer, or his fully appointed representative, shall make an inspection of a new, exterior dimension(s) altered or relocated building or structure or a building or structure for which a change of use is proposed. Such inspection may be made upon the completion of construction, if applicable, and may be made at the same time that the final inspection required under the Building Permit process is conducted.
2. A record shall be made indicating the time and date of the inspection and the findings of the Zoning Officer in regard to conformance to this Ordinance.
3. Such inspection may be made upon other properties for which an Occupancy Permit has been requested if the Zoning Officer deems it necessary.

Section 1204 TEMPORARY PERMIT

- A. A Temporary Permit shall be required prior to the initiation of a permitted, temporary use of a structure, land, or water body.

B. APPLICATION FOR PERMIT:

1. All requests for Temporary Permits shall be made in writing on a form furnished by the Borough and shall include a full description of the type of use for which such permit is being sought and the dates during which this use shall be in existence.

2. It shall be the duty of the Zoning Officer to review the application for compliance, request more information of the applicant or officially receive the application.
3. Unless such requirement is waived by the Borough Council, all applications for a Temporary Permit shall be accompanied by a fee, to be based upon the fee schedule adopted of the Borough.

C. PERMIT:

1. Applications for a Temporary Permit shall be reviewed by the Zoning Officer. The Zoning Officer shall issue approval or denial of the Temporary Permit.
2. Permit Issued: Upon approval of the request for a Temporary Permit, one (1) copy of this permit shall be given to the Applicant. This copy of the permit must be publicly displayed at the site of the temporary use during the existence of this use. One (1) copy of the permit shall be kept on file in the Borough Office.
3. Permit Denied: In the event of denial, the Zoning Officer shall forward to the Applicant a written statement containing the reason(s) for such denial.
4. Time Limitations: Temporary Permits are valid for the time period(s) specified in this Ordinance.

D. INSPECTION:

1. The Zoning Officer, or his fully appointed representative, may make an inspection of the property on which such temporary use is to be located to determine the suitability of the site for the use. This inspection shall be made prior to issuing a permit, prior to initiation of the use, or in the event a renewal of the permit is requested, during the time the use is in existence.
2. In the event of such inspection, a record shall be made indicating the time and date of inspection; the findings of the Zoning Officer in regard to conformance with this Ordinance, and other Borough Ordinances; and the opinion of the Zoning Officer in regard to the suitability of the site for this use.

Section 1205 SIGN PERMIT

A. A Sign Permit shall be required prior to the erection or structural alteration of any sign, either permanent or temporary. It shall be unlawful for any person to commence work for the erection or alteration of any sign until a permit has been issued. No sign permit shall be required for real estate signs; nameplate signs; or official governmental street, road, and traffic control signs.

B. APPLICATION FOR PERMIT:

1. All requests for Sign Permits shall be made in writing on a form furnished by the Borough and shall include a full description of the proposed sign, a description of the lot upon which such proposed sign is to be located, and a description of other existing signs on the same lot.

a. Drawing/Plan: All applications for a Sign Permit shall be accompanied by two (2) copies of a drawing/plan showing: width of sign; height of sign; gross surface area of sign; total height of sign above adjacent ground level; clearance between bottommost part of sign and ground level; distance between front edge of sign and adjacent street or road right-of-way; and distance between front edge of sign and inside edge of adjacent sidewalk, if applicable.

2. It shall be the duty of the Zoning Officer to review the application for completeness and compliance, request more information of the Applicant, or officially receive the application for the sign.

3. ~~All applications for a Sign Permit shall be accompanied by a fee, to be based upon the fee schedule of the Borough unless such requirement is waived by the Borough Council.~~ ORA 516

C. PERMIT:

1. Applications for a Permanent Sign Permit shall be reviewed by the Planning Commission. The Zoning Officer shall not issue a permit until receipt of review comments of the Planning Commission.

2. Applications for a Temporary Sign Permit shall be reviewed by the Zoning Officer.

3. Permit Issued: Upon approval of the Sign Permit one (1) copy of the permit shall be given to the Applicant, and one (1) copy of the permit shall be kept on file in the Borough Office.

4. Permit Denied: In the event of denial, the Zoning Officer shall forward to the Applicant a written statement containing the reason(s) for such denial.

OFFICIAL
BOROUGH OF CONWAY
ORDINANCE 516

AN ORDINANCE OF THE BOROUGH OF CONWAY, BEAVER COUNTY,
PENNSYLVANIA, AMENDING CHAPTER 124, ARTICLE XII OF THE
BOROUGH'S ZONING ORDINANCE TO ADD REGULATIONS
AS TO PERMITS AND FEES ASSOCIATED WITH THE ERECTION OR
ALTERATION OF ANY SIGN WITHIN THE BOROUGH.

SECTION 1205 SIGN PERMIT – Subsection B(3)

This section shall now read:

No permit will be issued unless and until the required fee is paid in full and the Application is in compliance with all regulations. Said application shall be accompanied by an Application/License Fee in the amount of Five (\$5.00) Dollars per square foot of sign area per sign face. This fee may be amended from time to time by Resolution of the Borough's Council.

Applications for erecting, altering, or moving a sign or signs, as well as the filing of a request for a variance with the Zoning Hearing Board, shall be accompanied by the required fees.

No fee shall be charged for resubmitting an application which adopts the suggested modifications of the Zoning Hearing Board.

No fee shall be charged for the painting or repair of a sign that is an exact duplicate of the existing approved sign.

No permit shall be issued, nor variance granted, without the payment of required fees.

SECTION 1205 SIGN PERMIT – Subsection C(5)

This section shall now read:

5.1 Sign approval permits, with the exception of billboards and free standing signs containing off-premises advertising, are valid until the sign is replaced, remodeled or structurally altered, in which case a new permit shall be required.

5.2 Existing billboards and free standing sign¹ that contains off-premises advertising or other relevant information, shall be inventoried upon

¹ "Free Standing Sign" is defined as a sign that is mounted on its own self-supporting structure and constructed on a permanent base.

12-9-4

execution of this Ordinance for re-evaluation under the current regulations and the institution of new permits. These types of permits and the required fee shall be administered annually.

5.3 Temporary Sign Permits shall expire in accordance with the regulations for Temporary Sign's Article of this Ordinance.

5.4 The sign owner shall notify the Zoning Officer upon the removal of any permitted sign.

5.5 Nonconforming Signs: All signs existing at the time this Section is enacted which do not conform to one (1) or more applicable provisions hereof shall be deemed to be nonconforming signs and shall be subject to the following requirements:

1. Any sign heretofore legally erected may continue to be maintained. However, no such sign shall be enlarged, added to or replaced by another nonconforming sign.
2. A nonconforming sign may be temporarily removed for repair and maintenance and re-erected if restored within six (6) months. Signs not restored within a six (6) month period shall be deemed abandoned and the use of the nonconforming sign shall terminate.
3. Nonconforming signs or sign locations which are discontinued or not used for a period of at least six (6) months shall be deemed abandoned and the use of the nonconforming sign shall terminate.
4. Any nonconforming sign that becomes unsafe or which is destroyed or damaged beyond repair shall be removed. Nonconforming signs which are unsafe, destroyed or damaged beyond repair for a period of six (6) months or more shall be deemed abandoned and the use of the nonconforming sign shall terminate.
5. Failure to comply with the approved permit provisions for removal of nonconforming signs shall result in penalties for noncompliance as set forth in the Zoning Ordinance.

SECTION 1205 SIGN PERMIT – Subsection E REMOVAL OF PROHIBITED ADVERTISING DEVICES

The following language shall be added:

In addition to other penalties prescribed in this Zoning Ordinance, the Borough may institute any appropriate action or proceeding after thirty (30) days written notice of a violation of this Ordinance to the person or persons maintaining or allowing to be maintained such sign, to prevent, restrain, correct or abate a violation or to cause the removal of any sign erected or maintained in violation of the provisions of this Ordinance, or the Borough may have any such sign corrected or removed by its

employees. In the event of such removal, the person or persons responsible for the erection or maintenance of such sign and the person or persons allowing such sign to be maintained shall be liable to the Borough for the cost of removal or correction of such sign. Neither the Borough nor any other employee acting at its discretion shall be liable in any criminal or civil action for damages for any action authorized by this Article.

SECTION 1205 SIGN PERMIT – Subsection F PENALTIES FOR VIOLATION

Whoever violates or fails to comply with any of the provisions of this Ordinance shall be subject to the enforcement remedies available under the Pennsylvania Municipalities Planning Code, Section 617.2 and Articles XV and XVI of this Zoning Ordinance.

ORDAINED and ENACTED this 20th day of June, 2007. This Ordinance shall be effective immediately.

ATTEST:

Diane McKay
Diane McKay
Borough Secretary

BOROUGH OF CONWAY

By Greg Ritorto
Greg Ritorto
President of Council

EXAMINED AND APPROVED this 20th day of June, 2007,
by Don L. Butts
Mayor

5. ~~Time Limitations:~~

ORD 516

- a. ~~Permanent Sign Permits shall expire upon completion of work authorized therein or within six (6) months from the issuance thereof; whichever event first occurs. Permits may be renewed one (1) time upon cause shown.~~
- b. ~~Temporary Sign Permits shall expire in accordance with the regulations for Temporary Sign's Article of this Ordinance.~~

D. INSPECTION

1. For a Permanent Sign Permit, the Zoning Officer, or his fully appointed representative, shall make the following minimum number of inspections on property which the permanent sign is to be located.
 - a. Prior to the beginning of construction: The Applicant shall notify the Zoning Officer when the area has been staked out indicating the dimensions of proposed construction. A record shall be made indicating the time and date of the Zoning Officer's inspection and the findings in regard to conformance of the construction with plans and description submitted with the application for the sign. If the actual construction does not conform to the application, a written notice of a violation shall be issued by the Zoning Officer, and such violation shall be discontinued. Construction shall only proceed after proper correction of the violation and receipt of written notice from the Zoning Officer that the violation has been corrected.
 - b. At the completion of construction: The Applicant shall notify the Zoning Officer when construction is completed. The Zoning Officer shall inspect the construction site. A record shall be made indicating the time and date of the inspection and the findings of the Zoning Officer in regard to conformance with this Ordinance.
2. For a Temporary Sign Permit, the Zoning Officer, or his fully appointed representative, may make inspection(s) to determine conformance with this Ordinance and other applicable Borough Ordinances and the suitability of the site for this use.

E. > ORD. 516
F.

ARTICLE XIII
AMENDMENTS

Section 1300 GENERAL ZONING AMENDMENT

Whenever the public necessity, convenience, or general welfare indicate; the Borough Council by Ordinance and in compliance with applicable laws, particularly the Pennsylvania Municipalities Planning Code, may amend, supplement, or change the regulations as established by this Ordinance.

A. APPLICATIONS:

1. INITIATION: Amendment applications may be initiated by any member of the Borough Council, by the Planning Commission, by the Zoning Officer, or by any person having proprietary interest in the land under question.
2. FILING PROCEDURE: Application for an amendment(s) shall be filed with the Borough Secretary on a form furnished by the Borough. The applicant shall pay a fee in accordance with the schedule fixed by resolution. No application shall be considered officially received until the application is completed in full including requested documentation and illustrations plus the fee is paid. This filing fee may be waived when an application is filed by any member of the Borough Council, Planning Commission, or the Zoning Officer.
3. REVIEW PROCEDURE:
 - a. The Borough Secretary upon receipt of the completed application and filing fee shall submit the application to the Planning Commission at least thirty (30) days prior to the public hearing to provide the Planning Commission an opportunity to submit recommendations.
 - b. The Borough Secretary upon receipt of the complete application and filing fee shall submit the application to the County Planning Commission at least thirty (30) days prior to the public hearing to provide the County Planning Commission an opportunity to submit recommendations.

B. PUBLIC HEARING:

1. The Borough Council shall hold a public hearing on the application pursuant to public notice. The public hearing shall commence not later than sixty (60) days after the application is correctly filed and officially received unless the applicant requests or consents to an extension of time.

2. The public hearing shall be conducted within the following guidelines:
 - a. President or Vice President of the Borough Council shall preside and shall have the 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.
 - b. The parties 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.
 - c. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
 - d. The Borough Council will keep a record of the proceedings as well as copies of graphic or written material received in evidence and shall be made available to any party at cost.
3. The hearing may be postponed or continued at the request of the applicant or by mutual consent of the parties.
4. If, after any public hearing upon an amendment, the proposed amendment is revised or further revised to include land not previously affected by it, the Borough Council shall hold another public hearing, pursuant to public notice before proceeding to vote on the amendment.

C. RENDERING THE DECISION:

1. Upon completion of the hearing, the Borough Council shall vote on and render a decision and communicate said decision to all parties within forty-five (45) days following the public hearing.
2. The vote and decision shall be held during a regular or special meeting of the Borough Council.
3. Approval of the proposed amendment requested by the applicant shall be granted by formal majority vote of the Borough Council.
4. If the proposed amendment requested is not approved, the applicant shall be informed by the Borough Council in writing. This written notice shall include specific statement(s) as to why the amended request was denied.

5. If the amendment requested is approved but partially revised, altered, or changed, the applicant shall be informed by the Borough Council in writing. This written notice shall include specific statement(s) as to why the amendment was revised and the specific amendment as adopted by the Borough Council.

Section 1301 LANDOWNERS CURATIVE ZONING AMENDMENT

A landowner who desires to challenge on substantive grounds the validity of this Ordinance, of the Official Zoning Map, or any provision hereof, may submit a curative amendment to the Borough Council with a written petition that his challenge and proposed amendment(s) be heard and decided.

A. PETITION:

1. FILING PROCEDURE: Petitions for a curative amendment shall be filed with the Borough Secretary. Such petition may be submitted at any time, but if an application for a permit or approval is denied under this Ordinance the request shall be made not later than thirty (30) days after notification of the denial. In such case, if the landowner elects to make the request to the Borough Council, the time within which he may seek review of the denial of the permit or approval on other issues shall not begin to run until the curative amendment request within the petition is finally disposed of.
2. PETITION CONTENTS: The landowner shall provide a written petition to the Borough Council requesting it to hold a hearing on his challenge. The petition shall contain:
 - a. A short statement reasonably informing the Borough Council of the matters that are in issue and the grounds for the challenge.
 - b. A certification that the landowner did not know at the time of filing the petition that the Borough has resolved to consider a particular scheme of rezoning, by publication of notice of hearings on a proposed comprehensive plan or proposed zoning ordinance, and this rezoning scheme had reached sufficient particularity to disclose that, if adopted, it would cure the defect in the Ordinance subject to the landowner's substantive challenge or that the rezoning would be inconsistent with the landowner's proposed use.
 - c. Plans and other material reasonably describing the use or development proposed by the landowner in lieu of the use or development permitted by this Ordinance or the Official Zoning Map and sufficient enough to evaluate the challenge.

- d. An amendment or amendments to this Ordinance proposed by the landowner to cure the alleged defects specified in the challenge.
- B. REVIEW PROCEDURE:
1. The Borough Secretary upon receipt of the complete petition shall submit the petition to the Planning Commission at least thirty (30) days prior to the public hearing to provide the Planning Commission an opportunity to submit recommendations.
 2. The Borough Secretary upon receipt of the complete petition shall submit the petition to the County Planning Commission at least thirty (30) days prior to the public hearing to provide that Planning Commission an opportunity to submit recommendations.
- C. PUBLIC HEARING:
1. The Borough Council shall hold a public hearing on the challenge and proposed amendment. The hearing shall commence not later than sixty (60) days after the petition was filed unless the landowner requests or consents to an extension of time.
 2. The public notice of the hearing shall, in addition to the requirements for advertisement for any amendment, indicate that the validity of this Ordinance is in question and shall indicate the place where and times when a copy of the landowner's petition, including all plans submitted and the proposed amendment(s) may be examined by the public.
 3. The public hearing shall be conducted within the following guidelines.
 - a. The President or Vice President of the Borough Council presiding shall have the 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.
 - b. The parties 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.
 - c. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

- d. The Borough Council shall keep a stenographic record of the proceedings, and a transcript of the proceedings as well as copies of graphic or written material received in evidence shall be made available to any party at cost.
 - e. The Borough Council 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 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 representatives unless all parties are given an opportunity to be present.
- 4. The hearing may be postponed or continued at the request of the landowner or by mutual consent of the parties.
- D. RENDERING THE DECISION:
- 1. The vote and decision shall be held during a regular or special meeting of the Borough Council.
 - 2. Approval of the proposed amendment shall be granted by formal, affirmative, majority vote of the Borough Council.
 - 3. The landowner's request for a curative amendment shall be considered denied when:
 - a. The Borough Council notifies the landowner that it will not adopt the amendment.
 - b. The Borough Council adopts another amendment which is unacceptable to the landowner.
 - c. The Borough Council fails to act on the landowner's request within thirty (30) days of the close of the last hearing, unless the time is extended by mutual consent of the landowner and the Borough.

Section 1302 MUNICIPAL CURATIVE AMENDMENT

The Borough, by formal action, may declare this Ordinance or portions thereof or declare the Official Zoning Map or portions thereof substantively invalid and propose a curative amendment to overcome such invalidity.

- A. RESOLUTION: Within thirty (30) days following the declaration the Borough Council shall, by resolution, make specific findings that set forth the declared invalidity of this Ordinance or the Official Zoning Map.

1. Reference to specific uses which are either not permitted or not permitted in sufficient quantity.
 2. Reference to a class of use or uses which require revision.
 3. Reference the entire ordinance which requires revisions.
- B. AMENDMENT: Within thirty (30) days following the declaration and proposal the Borough Council shall begin to prepare and consider a curative amendment to this Ordinance and/or the Official Zoning Map to correct the declared invalidity.
- C. ENACTMENT: Within one hundred eighty (180) days from the date of the declaration the Borough Council shall enact a curative amendment to, or reaffirm the validity of this Ordinance and/or the Official Zoning map pursuant to the provisions of General Zoning Amendment Section of this Ordinance to cure the declared invalidity.
- D. NO REQUIREMENT TO CONSIDER LANDOWNERS CURATIVE AMENDMENT:
After formal declaration to prepare a municipal curative amendment the Borough shall not be required to entertain or consider any landowner's curative amendment nor shall the Zoning Hearing Board be required to give a report requested in regard to a challenge to the validity of the Ordinance or the Official Zoning Map or in regard to unified appeals when such curative amendment or appeal is based upon the grounds identical or substantially similar to those specified in the resolution required in the Landowners Curative Zoning Amendment. Upon completion of the procedures for a municipal curative amendment, no rights to a cure shall, from the date of the declaration accrue to any landowner on the basis of the substantive invalidity of this unamended Ordinance or the unamended Official Zoning Map for which there has been a municipal curative amendment.
- D. USE OF MUNICIPAL CURATIVE AMENDMENT:
The Borough having utilized the municipal curative amendment may not again utilize the municipal curative amendment for a thirty-six (36) month period following the date of the enactment of a municipal curative amendment or reaffirmation of the validity of this Ordinance and the Official Zoning Map through the municipal curative amendment process.

ARTICLE XIV
VALIDITY

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any part thereof, and the parts of or sections remaining shall remain in effect as though the part or section declared unconstitutional has never been a part thereof.

ARTICLE XV
REMEDIES

In case any building, structure, or land is, or is proposed to be erected, constructed, reconstructed, altered, converted, maintained, or used in violation of this Ordinance or prior laws, Borough Council may instruct an officer of the Borough in addition to other remedies, to institute in the name of the Borough any appropriate action or proceedings to prevent, restrain, correct, or abate such violation, structure, or land, or to prevent, in or about such premises any act, conduct, or use constituting a violation.

ARTICLE XVI
PENALTIES

Any person, partnership, or corporation who or which shall violate the provisions of this Zoning Ordinance enacted under Pennsylvania Municipalities Planning Code, as amended; or shall make any false statement in any application, plan, or other writing required thereunder; or shall build or alter any building or other structure in substantial deviation from any approved plan or other approved writing; shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than five hundred dollars (\$500.00). In default of payment of the fine, such person, the members of such partnership, or other officers of such corporation shall be liable to imprisonment for not more than sixty (60) days. Each day a violation is continued shall constitute a single and separate offense. All fines collected for the violation of this Zoning Ordinance shall be Paid over to Borough Council and deposited in the General Fund.

ARTICLE XVII
REPEALER

All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

ARTICLE XVIII
ENACTMENT

This ORDINANCE is enacted and Ordained by Borough Council of the
Borough of Conway this 13th day of May,
1985.

ATTEST:

PASSED:

BOROUGH OF CONWAY

Secretary

President of Borough Council

AMENDMENTS

Ordinance No. 417 Date: 12/14/87 General Description _____

Ordinance No. 419 Date: 8/8/88 General Description _____

ORDINANCE NO. 417

AN ORDINANCE OF THE BOROUGH OF CONWAY AMENDING
SECTION 604.D.1. OF THE ZONING ORDINANCE
OF THE BOROUGH OF CONWAY REGULATING SPECIAL
EXCEPTIONS IN THE C-1 COMMERCIAL DISTRICT.

BE IT ORDAINED by the Borough of Conway, Beaver County,
Pennsylvania, and it is hereby ORDAINED and ENACTED by the authority
of the same as follows:

SECTION 1. Section 604.D.1. of the Zoning Ordinance of
the Borough of Conway is amended by deleting the number "600"
and substituting therefor "200".

SECTION 2. Section 604.D.1 of the Zoning Ordinance of
the Borough of Conway as amended hereby shall read in its entirety
as follows:

1. Gasoline service station and automotive repair shop
being less than 200 feet along the front property
line from another gasoline service station or automotive
repair shop and where the use is more than 50 feet
from a residential lot or a residential zoning district.

SECTION 3. All and any ordinances or portions thereof
inconsistent herewith are hereby repealed to the extent of such
inconsistency.

ORDAINED and ENACTED this 14th day of December, 1987.

ATTEST:

BOROUGH OF CONWAY

Landra Brandenberg
Borough Secretary

Sam R. Smith
President

APPROVED by me this 14th day of December, 1987.

John J. Smith
Mayor

ORDINANCE NO. 419

AN ORDINANCE OF THE BOROUGH OF CONWAY, BEAVER COUNTY, PENNSYLVANIA, AMENDING ORDINANCE NO. 404, KNOWN AS THE ZONING ORDINANCE OF CONWAY BOROUGH TO INCLUDE A DEFINITION OF WASTE, HAZARDOUS WASTE, INFECTIOUS WASTE, CHEMOTHERAPEUTIC WASTE, DANGEROUS WASTE, HOSPITAL WASTE AND TO DISALLOW THE USE OF LAND FOR THE PURPOSES OF CREATION OF FACILITIES OR INCINERATORS TO HANDLE OR HOUSE

WHEREAS, the Borough of Conway, has heretofore on the 13th day of May 1985, enacted Ordinance No. 404, known as the Zoning Ordinance of Conway Borough.

WHEREAS, the Borough of Conway is desirous of making changes in the existing Ordinance.

NOW THEREFORE, be it Ordained and Enacted by the Council of the Borough of Conway and is hereby Ordained and Enacted by Authority of the same:

SECTION I Article III, §301: That Article III, §301, Meaning of words, of the existing Section be amended to read so as to add:

53.1 Hazardous Waste. "Hazardous Waste" herein means the same as "hazardous waste" under the federal regulations promulgated by the United States Environmental Protection Agency and codified at 40 C.F.R. 261.3 is incorporated by reference. All lists in 40 C.F.R. Part 261, Subpart D, and the Appendices to Part 261 are also expressly incorporated by reference. The term "hazardous waste" as used herein also includes any substance or mixture containing polychlorinated biphenyls ("PCBs") at greater than one tenth of one percent concentrations when such substance of mixture is not intended for

beneficial use or reuse. Radioactive waste and by-products, as defined by the Code of Pennsylvania 1975, are expressly excluded from this definition.

162.1 Waste. "Waste" means the same as "solid waste" under federal regulations promulgated by the United States Environmental Protection Agency and codified at 40 C.F.R. 261.2 40 C.F.R. 261.2 is incorporated by reference herein.

62.1 Infectious Waste. "Infectious Waste" is waste that contains or may contain any disease producing microorganism or material. Infectious wastes include but are not limited to the following:

- i. Those wastes that are generated by hospitalized patients who are isolated in separate rooms in order to protect others from their severe and communicable disease.
- ii. All cultures and stocks of etiologic agents.
- iii. All waste blood and blood products.
- iv. Tissues, organs, body parts, blood and body fluids that are removed during surgery and autopsy, and other wastes generated by surgery or autopsy of septic cases or patients with infectious disease.
- v. Wastes that were in contact with pathogens in any type of laboratory work, including collection containers, culture dishes, slides, plates and assemblies for diagnostic tests; and devices used to transfer, inoculate and mix cultures.
- vi. Sharps, including hypodermic needles, suture needles, disposable razors, syringes, pasteur pipettes, broken glass and scalpel blades.
- vii. Wastes that were in contact with the blood of patients undergoing hemodialysis at hospitals or independent treatment centers.
- viii. Carcasses and body parts of all animals which were exposed to zoonotic pathogens.
- ix. Animal bedding and other wastes that were in contact with diseased or laboratory research animals or their excretions, secretions, carcasses, or body parts.
- x. Waste biologicals (e.g., vaccines) produced by pharmaceutical companies for human or veterinary use.

- xi. Food and other products that are discarded because of contaminated with etiologic agents and are to be discarded.
- xii. Discarded equipment and equipment parts that are contaminated with etiologic agents and are to be discarded.

19.1 Chemotherapeutic Waste. "Chemotherapeutic waste" is all waste generated by or resulting from the production or use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells. Chemotherapeutic waste shall not include any waste containing antineoplastic agents that are listed as hazardous waste under 25 Pa. Code 75.261 (relating to criteria, identification and listing of hazardous waste).

143.1 Storage. "Storage" means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, moved, or stored elsewhere.

26.1 Dangerous Waste. "Dangerous Waste" means infectious wastes, or chemotherapeutic wastes, or hazardous wastes, or any combination thereof.

56.1 Hospital Waste. Waste of any sort generated by nursing homes, hospitals or clinics for the treatment of disease, like institutions of businesses. The term shall also include paper products, bedding, towels, containers, or cleaning implements that have been exposed to infectious, chemotherapeutic, pathological wastes, solid wastes, and/or hazardous wastes generated by nursing homes, hospitals or clinics for the treatment of disease, or like institutions of businesses.

SECTION II. Article I: That Article I, Section 104, Use of Property Provision, be amended to read so as to add Subsection D.

D: No building and/or no part of a building shall be erected or altered to be used for the purpose of processing or storing of infectious waste, pathological waste, chemotherapeutic waste, hazardous waste, radioactive waste or hospital waste.

SECTION III. An Ordinance or parts of an Ordinance in conflict with any of the provisions of this Ordinance are hereby repealed insofar as the same conflict with this Ordinance.

BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of
Conway, this 8th day of August, 1988.

BOROUGH OF CONWAY

(SEAL)

BY: [Signature]
President, George Abraham

ATTEST:

[Signature]
Secretary, Sandra Brandenburg

Approved this 8th day of August, 1988.

[Signature]
Mayor, Jack Andolina

BOROUGH OF CONWAY
BEAVER COUNTY, PENNSYLVANIA
ORDINANCE NO. 457

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF CONWAY
BOROUGH TO REGULATE THE TIME, MANNER AND PLACE OF
SEXUALLY ORIENTED BUSINESS OPERATIONS

The following are the finding of the Conway Borough Council:

WHEREAS, the Town Council of Conway Borough finds sexually oriented businesses are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

WHEREAS, the concern over sexually transmitted disease is a legitimate health concern of Conway Borough which demands reasonable regulation of sexually oriented businesses in order to protect the health and well-being of the citizens; and

WHEREAS, permitting and/or licensing is a legitimate and reasonable means of accountability to ensure that operators of sexually oriented businesses comply with reasonable regulations to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation; and

WHEREAS, there is convincing documented evidence that sexually oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values; and

WHEREAS, it is recognized that sexually oriented businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in the close proximity to each other, thereby contributing to neighborhood blight and downgrading the quality of life in the adjacent area; and

WHEREAS, Conway Borough desires to minimize and control these adverse effects and thereby protect the health, safety and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and deter the spread of neighborhood blight; and

WHEREAS, it is not the intent of this ordinance to suppress any speech activities protected by the First Amendment, but to enact a content neutral ordinance which addresses the secondary effects of sexually oriented businesses; and

WHEREAS, it is not the intent of the Town Council of Conway to condone or legitimize the distribution of obscene material,

Pursuant to the authority granted by the Constitution and the General Assembly of the Commonwealth of Pennsylvania, BE IT HEREBY ENACTED AND ORDAINED by the Town Council of Conway Borough as follows;

SECTION 1 - PURPOSE AND INTENT:

It is the purpose of this ordinance to regulate sexually oriented businesses to promote the health, safety and general welfare of the citizens of the Borough and to establish reasonable and uniform regulations to prevent the continued deleterious location and concentration of sexually oriented businesses within the Borough. The provisions of this ordinance have neither the purposes nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

SECTION 2 - DEFINITIONS:

- A. ADULT ARCADE means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."
- B. ADULT BOOKSTORE or ADULT VIDEO STORE means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or, more of the following:
 - i. books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassette or video reproductions, slides or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or
 - ii instruments, devices or paraphernalia which are designated for use in

connection with "specified sexual activities."

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

C. ADULT ENTERTAINMENT means either or both of the following:

- i. An exhibition of any adult oriented motion pictures, meaning those distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
- ii. A live performance, display or dance of any type, which has a significant or substantial portion of the performance of any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal of articles of clothing or appearing unclothed, pantomiming, modeling or any personal services offered patrons.

D. ADULT CABARET means a nightclub, bar, restaurant or similar commercial establishment which regularly features:

- i. persons who appear in the state of nudity; and
- ii. live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- iii. films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified anatomical areas" or by "specified sexual activities."

E. ADULT MOTEL means a hotel, motel or similar commercial establishment which:

- i. offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which

are characterized by the description of "specified anatomical areas" or by "specified sexual activities"; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or

- ii offers sleeping rooms for rent four (4) or more times in one calendar day during five (5) or more calendar days in any continuous 30-day period.
- F. ADULT MOTION PICTURE THEATER means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified anatomical areas" or by "specified sexual activities."
- G. ADULT THEATER means a theater, concert hall auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."
- H. CHILD ORIENTED BUSINESS means a commercial establishment which, as one of its principal business purposes, serves and / or sells to the children and their families, food, apparels, goods, services, play and / or entertainment.
- I. EMPLOYEE means any and all persons, including independent contractors, who work in or at or render service directly related to the operation of a sexually oriented establishment.
- J. ENTERTAINER means a person who provides entertainment within a sexually oriented establishment, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or as an independent contractor.
- K. ESCORT mean a person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to Privately model lingerie or to Privately Perform a striptease for another Person.
- L. ESCORT AGENCY means a person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its business purposes for a fee, tip or other consideration.

- M. INSPECTOR means an employee of the Beaver County Health Department authorized and designated by the Director of the Department and / or Borough of Conway Zoning Officer and / or an employee of the Borough of Conway Police Department, or other persons designated by the Borough of Conway to inspect premises regulated under this ordinance and to cooperate in taking the required actions authorized by this ordinance where violations are found on a premise and to request correction of the unsatisfactory conditions found on a premise.
- N. MINOR means a person under eighteen (18) years of age.
- O. OPERATOR means a person, partnership or corporation operating, conducting or maintaining a sexually oriented establishment.
- P. PERMITTEE and/or LICENSEE means a person in whose name a Permit and/or license to Operate a sexually oriented business has been issued, as well as the individual listed as an Applicant on the application for a permit and/or license.
- Q. NUDE MODEL STUDIO means any Place where a person who appears in a state of nudity or displays "specified anatomical areas" or by "specified sexual activities" is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration.
- R. NUDITY or a STATE OF NUDITY means the appearance of a human bare buttock, anus, male genitals, female genitals or female breast.
- S. PERSON means an individual, proprietorship, partnership, corporation, association or other legal entity.
- T. SEMI-NUDE means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.
- U. SEXUAL ENCOUNTER CENTER means a business or commercial enterprise that, as one of its primary business purpose, offers for any form of consideration:
- i. physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - ii. activities between male and female persons and/or persons of the same sex when one more of the persons is in a state of nudity or semi-nude.

- V. **SEXUALLY ORIENTED BUSINESS** means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center.
- X. **SEXUALLY RELATED FACILITIES** means a business or establishment which offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".
- Y. **SPECIFIED ANATOMICAL AREAS** means the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.
- Z. **SPECIFIED SEXUAL ACTIVITIES** means and includes any of the following:
- i. the fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
 - i. sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
 - ii. masturbation, actual or simulated; or
 - iii. excretory functions as part of or in connection with any of the activities set forth in i through iii above.
- AA. **SUBSTANTIAL ENLARGEMENT** of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five per cent (25%), as the floor areas exist on date of enactment of this Ordinance.
- BB. **Borough** means Borough of Conway
- CC. **TRANSFER OF OWNERSHIP OR CONTROL** of a sexually oriented business means and includes any of the following:
- i. the sale, lease or sublease of the business;
 - ii. the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or
 - iii. the establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for the transfer by bequest

or other operation of law upon the death of the person possessing the ownership or control.

SECTION 3 - CLASSIFICATION

Sexually oriented businesses are classified as follows:

- A. Adult arcades;
- B. Adult bookstores or adult video stores;
- C. Adult cabarets,
- D. Adult motels;
- E. Adult motion picture theaters;
- F. Adult theaters;
- G. Escort agencies;
- H. Nude model studios; and
- I. Sexual encounter centers.

SECTION 4 - PERMIT REQUIRED:

- A. Any person who operates a sexually oriented business without a valid permit issued by the Borough is guilty of a violation of the Zoning Ordinance of the Borough.
- B. An application for a permit to operate a sexually oriented business must be made on a form provided by the Zoning Officer of the Borough. The application must be accompanied by a sketch or diagram showing the floor plan and Plot Plan configuration of the Promises, including a statement of total floor space occupied by the business. 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 any accuracy of plus or minus six inches (6").
- C. The applicant must be qualified according to the provisions of this chapter and the promises must be inspected and found to be in compliance with the law by the Zoning Officer.
- D. 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 ten per cent (10%) 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 of ten per cent (10%) or greater in the corporation must sign the application for a permit as applicant.

- E. The fact that a person possesses other types of Borough permits does not exempt the person from the requirement of obtaining a sexually oriented business permit.
- F. No sexually oriented establishment may change to another sexually related facility except upon approval of any additional special exception. An applicant shall not transfer the ownership or control of the business to another person. An applicant shall not operate a sexually oriented business at any place other than the address designated on the application.

SECTION 5 - ISSUANCE OF A PERMIT:

- A. The Borough Zoning Officer shall approve the issuance of a permit to an applicant within thirty (30) days after receipt of an application unless he finds one or more of the following to be true:
 - A. An applicant is under eighteen (18) years of age.
 - B. An applicant or an applicant's spouse is overdue in his payment to the Borough of 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 information reasonably necessary 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 had been denied a permit by the Borough to operate a sexually oriented business within the Preceding twelve (12) months, or residing with a person whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
 - E. The premises to be used for the sexually oriented business have been reviewed and have been disapproved by either the Zoning Officer or the Fire Chief as not being in compliance with applicable laws and ordinances.

- F. The permit fee required by this ordinance 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 ordinance.
- H. An individual applicant or any individual holding a direct or indirect interest of more than ten per cent (10%) of a corporate applicant, or any of the offices and directors of a corporate applicant, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership or the manager or other person 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' convictions or release in connection with the sexual misconduct offense must have occurred within two (2) years of the date of application in the event of a misdemeanor and within five (5) years of the date of application in the event of a felony.
- B. 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. The 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.
- C. The Zoning Officer and Fire Chief shall complete their certification that the premises are in compliance or not in compliance within twenty (20) days of receipt of the application by the Zoning Officer. The certification shall be promptly presented to the Zoning Officer.

SECTION 6 - FEES:

The Annual fee for a sexually oriented business permit is Five hundred dollars (\$500.00).

SECTION 7 - INSPECTION:

- A. An applicant, or permittee, shall permit representatives of the Police Department, Fire Chief, Zoning Officer or other Borough departments or

agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time that the sexually oriented business is occupied or open for business.

- B. If the Borough Zoning Officer denies renewal of a license, the applicant shall not be issued a permit for one year from the date of denial except that after ninety (90) days have elapsed since the date of denial, the applicant may be granted a permit if the Zoning Officer finds that the basis for denial of the renewal permit has been corrected or Abated.

SECTION 8 - EXPIRATION OF PERMIT:

- A. Each permit shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in Section S. Application for renewal should be made at least thirty (30) days before the expiration date and when made less than thirty (30) days before the expiration date, the pendency of the application will not prevent the expiration of the permit.
- B. If the Borough Zoning Officer denies renewal of a license, the applicant shall not be issued a permit for one year from the date of denial, except that after ninety (90) days have elapsed since the date of denial, the applicant may be granted a permit if the Zoning Officer finds that the basis for denial of the renewal permit has been corrected or abated.

SECTION 9 - SUSPENSION OF PERMIT:

The Zoning Officer shall suspend a permit for a period not to exceed thirty (30) days if he determines that a permittee or employee of a permittee has:

- A. Violated or is not in compliance with any section of this ordinance;
- B. Engaged in excessive used of alcoholic beverages while on the sexually oriented business premises;
- C. Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter;
- D. Knowingly permitted gambling by any person on the sexually oriented business premises;

- E. Failed to staff managers' stations and/or maintain viewing rooms as set forth in Section 13.

SECTION 10 - REVOCATION OF PERMIT:

- A. The Zoning Officer shall revoke a permit if a cause of suspension act forth in Section 9 occurs and the permit has been suspended within the preceding twelve (12) months.
- B. The Zoning Officer shall revoke a permit if he determines that:
- i. a permittee, or any of the persons specified in Section 5 (A)(viii), is or has been convicted of the offenses specified in Section (A) (viii),
 - ii. a permittee gave false or misleading information in the material submitted to the Borough during the application process;
 - iii. a permittee or an employee of a permittee has knowingly allowed possession, use or sale of controlled substances on the premises;
 - iv. a permittee or an employee of a permittee has knowingly allowed prostitution on the premises;
 - v. 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;
 - vi. a permittee or an employee of a permittee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or another explicit sexual conduct to occur in or on the permitted premises;
 - vii. a permittee is delinquent in payment to the Borough or State of any taxes or fees related to sexually oriented businesses.
- C. When the Zoning Officer revokes a permit, the revocation shall continue for one (1) year, and the permittee shall not be issued a sexually oriented business permit for one (1) year from the date the revocation became effective, except that if the revocation is pursuant to (B) (1) above, the revocation shall be effective for two (2) years in the event of a misdemeanor or five (5) years in the case of a felony.

- D. After denial of an application, or denial of a renewal of an application or revocation of a permit, the applicant or licensee or permittee shall have the right to appeal said action and to seek prompt judicial review of such administrative action in any court of competent jurisdiction.

SECTION 11 - 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.

SECTION 12 - LOCATION OF SEXUALLY ORIENTED BUSINESSES:

- A. A person is guilty of a violation of the Zoning Ordinance if he operates or causes to be operated a sexually oriented business outside of the district in which a sexually oriented business is a permitted use. No 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 "I-P" Zoning District as a Special Exception.
- B. A person is guilty of a violation of the Zoning Ordinance if he operates or causes to be operated a sexually oriented business within one thousand feet (1,000') of:
- i. a church;
 - ii. a public or private pre-elementary, elementary or secondary school;
 - iii. a public library;
 - iv. a child care facility or nursery school;
- C. A person is guilty of a violation of the Zoning Ordinance if he operates or causes to be operated a sexually oriented business within seven hundred and fifty feet (750') of:
- i. a public park.
- D. A person is guilty of a violation of the Zoning Ordinance if he causes or permits the operation, establishment, substantial enlargement or transfer of ownership or control of a sexually oriented business within five thousand feet (5000') of another sexually oriented business.

- E. A person is guilty of a violation of the Zoning Ordinance 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 the increase of floor areas of any sexually oriented business in any building, structure or portion thereof containing another sexually oriented business.
- F. For the purpose of this ordinance, 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 the premises of a church, public or private pre-elementary, elementary, or secondary school, public library, child care facility, or nursery school; or to the nearest boundary of an affected public park.
- G. For purposes of subsection C of this section, the distance between any two sexually oriented business 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.
- H. Any sexually oriented business lawfully operating on date of enactment of this Ordinance that is in violation of subsection A through F of this section shall be deemed a nonconforming use. Such nonconforming uses shall not be increased, enlarged, extended or altered, except that the use may be changed to a conforming use. In the event that two or more sexually oriented businesses are within five thousand feet (5000) of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operated at a particular location is the conforming use and the later-established business is nonconforming.
- I. A sexually oriented business lawfully operating as 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 a church, public or private pre-elementary, elementary, or secondary school, public library, child care facility, nursery school or public park within the distances prescribed in sections B and C above. 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.

SECTION 13 - REGULATIONS PERTAINING TO DANCING BY LIVE PERFORMERS AND OR PERSONS:

- A. All performers and / or dancers engaging in dancing activity shall wear pasties and G-Strings at all times.

SECTION 14 - REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS:

- A. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises a viewing room of less than one hundred fifty (150) square feet of floor space, a film or video cassette, or other video or other image production or reproduction which depicts "specified sexual activities" or "specified anatomical areas", shall comply with the following requirements:
- i. The application for a permit to operate a sexually oriented business shall be accompanied by a floor plan and plot plan diagram of the premises showing a plan thereof specifying the location of one or more manager's stations, the location of all viewing rooms, partitions and doors and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A managers station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineers or architects blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The Zoning Officer may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
 - ii. The application should be sworn to be true and correct by the applicant.
 - iii. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Zoning Officer or his designee.

- iv. It is the duty of the owners and operators of the premises to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
- v. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a managers station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms, Restrooms may not contain video reproduction or viewing equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the managers station.
- vi. It shall be the duty of the owners and operators, and it shall also be the duty of any agents and employees present on the premises to ensure that the view area specified in subsection v of this section, remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection I of this section.
- vii. No viewing room may be occupied by more than one (1) person at any time. No connections or openings to an adjoining viewing room shall be permitted.
- viii. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1) foot candle as measured at the floor level.
- ix. It shall be the duty of the owners and operators and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

B. A person having a duty under subsection i through ix of subsection A is guilty of a violation of the Zoning Ordinance if he knowingly fails to fulfill that duty.

SECTION 15 - SIGNAGE

- A. Notwithstanding any other provisions of the Borough of Conway code, it shall be unlawful for any owner or operator of any sexually oriented establishment or any other person to erect, construct or maintain any sign for the regulated establishment other than one (1) "primary sign". "Primary Signs" shall contain no photographs, silhouettes, drawings or pictorial representations of any manner, and may contain only:
- i. the name of the regulated establishment and / or
 - ii. One or more of the following phrases:
 - a. Adult Bookstore;
 - b. Adult Movie Theater;
 - c. Adult Encounter Parlor;
 - d. Adult Cabaret;
 - e. Adult Lounge;
 - f. Adult Novelties;
 - g. Adult Entertainment;
 - h. Adult Modeling Studio

SECTION 16 - NOTICES TO MINORS

Each entrance where minors are not permitted either by established policy or by law, to the premises shall be posted with a notice specifying that persons under the age of eighteen (18) years are not permitted to enter therein.

SECTION 17 - HOURS OF OPERATION

The sexually oriented business establishment may be open for business Monday through Saturday from 10:00 am, prevailing time to 12:00 midnight, prevailing time. No sexually oriented establishment shall be open on Sunday.

SECTION 18 - EXEMPTIONS

It is a defense to prosecution under section 5 and section 12 that a person appearing in a state of nudity did so in a modeling class operated:

- A. by a proprietary school licensed by the Commonwealth of Pennsylvania, or a college, junior college or university supported entirely or partly by taxation;

which credits are transferable to a college, junior college or university supported entirely or partly by taxation, or in a structure:

- i. which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
- ii. where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class, and
- iii. where no more than one (1) nude model is on the premises at any one time.

SECTION 19 - INJUNCTION

A person who operates or causes to be operated a sexually oriented business without a valid permit or in violation of this ordinance is subject to an action in equity or suit for injunction as well as citations for violations of the Zoning Ordinance,

SECTION 20 - SEVERABILITY

The provisions of this ordinance are severable and, if any section, sentence, clause, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction such decision of the court shall not affect the remaining sections, sentences, clauses, parts or provisions of the ordinance. It is hereby declared to be the intent of the Town Council that this ordinance would have been adopted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

SECTION 21 - EFFECTIVE DATE

This ordinance shall take effect and be in force from and after its enactment as required by law.

ENACTED by the Town Council of Council of the Borough of Conway, at a public meeting on the 15th day of April, 1999.

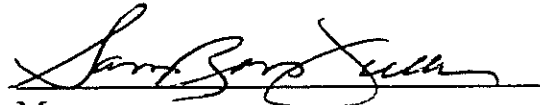
ATTEST:

BOROUGH OF CONWAY

Anders Brandenburg
Secretary

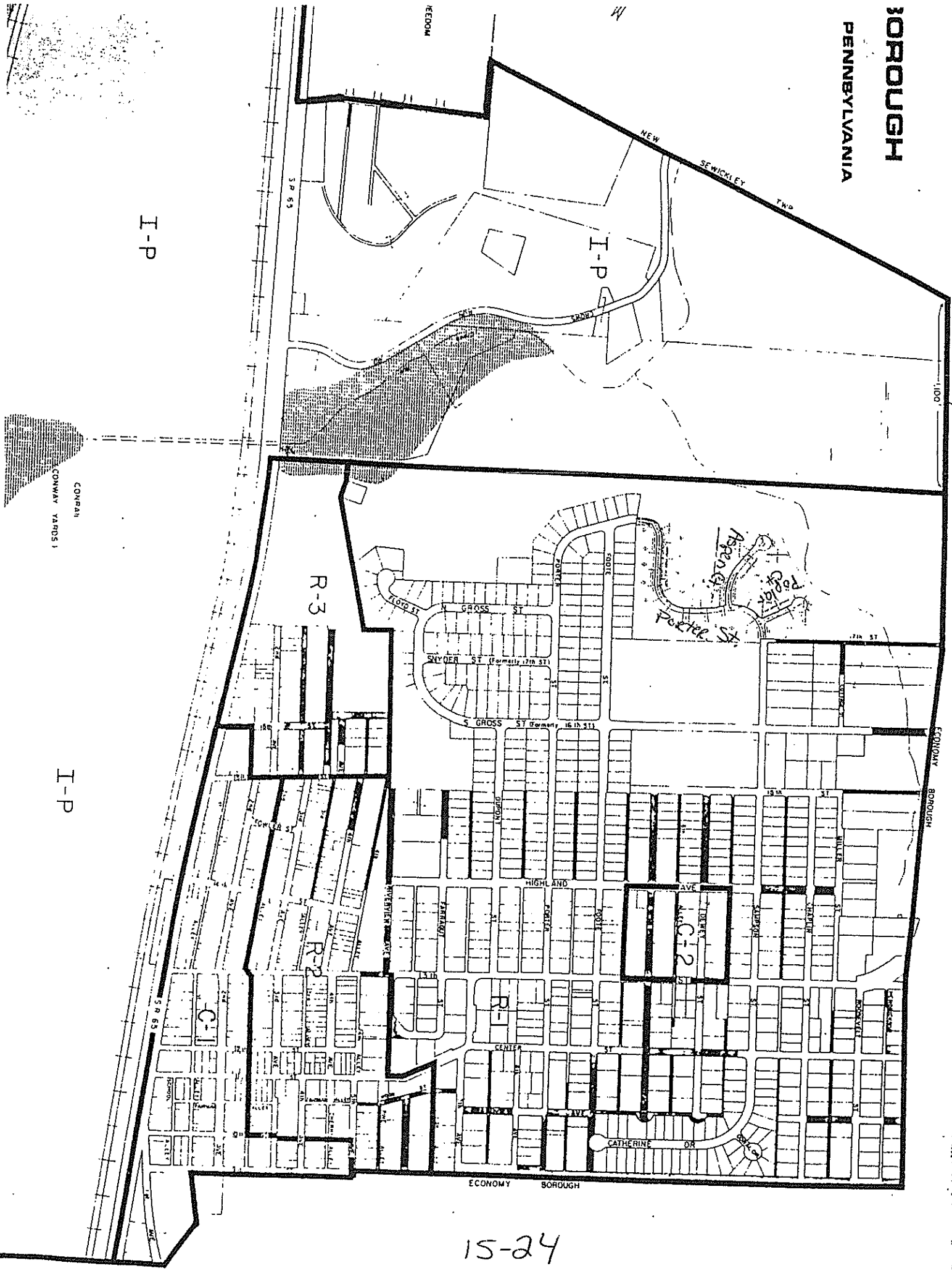
By W. J. [Signature]
President of Council

Read and approved by me this 25th day of May, 1999.



Mayor

BOROUGH
PENNSYLVANIA



15-24

