

Chapter 27

Zoning

Part 1 General Provisions

- §27-101. Short Title
- §27-102. Severability
- §27-103. Interpretation
- §27-104. Availability of Ordinance

Part 2 Rules and Definitions

- §27-201. Rules
- §27-202. Definitions

Part 3 Classification of Districts

- §27-301. Classes of Districts
- §27-302. Zoning District Map
- §27-303. Boundaries of Districts

Part 4 Residential #1-R-1

- §27-401. Use
- §27-402. Height
- §27-403. Area

Part 5 Residential #2-R-2 Multiple Family Dwellings

- §27-501. Use
- §27-502. Height
- §27-503. Area

Part 6 Commercial-C

- §27-601. Use
- §27-602. Permitted Uses
- §27-603. Height
- §27-604. Area

Part 7
General Industrial-M

- §27-701. Use
- §27-702. Area
- §27-703. Parking

Part 8
Community Park

- §27-801. Delineation and Use

Part 9
General Provisions and Exceptions

- §27-901. General Use Provisions and Exceptions
- §27-902. General Height Provisions and Exceptions
- §27-903. General Area Provisions and Exceptions
- §27-904. Nonconforming Uses
- §27-905. Nonconforming Signs
- §27-906. Sheds
- §27-907. Swimming Pool, Private
- §27-908. Fences

Part 10
Signs and Lights

- §27-1001. "R" Districts
- §27-1002. "C" District
- §27-1003. "M" District
- §27-1004. General Sign and Light Provisions

Part 11
Zoning Hearing Board

- §27-1101. Creation and Membership
- §27-1102. Meetings
- §27-1103. Appeal
- §27-1104. Powers

Part 12
Administration, Enforcement and Amendment

- §27-1201. Zoning Officer
- §27-1202. Occupancy and Compliance Permits
- §27-1203. Record of Certificate and Charges
- §27-1204. Application Forms
- §27-1205. Changes and Amendments
- §27-1206. Enforcement Notice
- §27-1207. Enforcement Remedies

Part 1**General Provisions****§27-101. Short Title.**

This Chapter shall be known and may be cited as the “Zoning Ordinance of Borough of Hunker.” The map, showing the division of the Borough into the designated zoning districts, shall be known as the “Zoning District Map.” The said map shall be an integral part of this Chapter.

(*Ord. 37, 7/6/1970, §101*)

§27-102. Severability.

Should the courts declare any portion of this Chapter to be invalid, such declaration shall not affect the validity of the Chapter as a whole or of any part thereof, other than the specific portion declared to be invalid.

(*Ord. 37, 7/6/1970, §102*)

§27-103. Interpretation.

1. The provisions of this Chapter shall control wherever they impose greater restrictions (on the use of land, or on the use of height of structures, or on the size of yards or other open spaces, or on the density of population) than those imposed by other laws, ordinance, rules, regulations, or permits, or by easements, agreements, or covenants.

2. In interpreting and applying the provisions of this Chapter, they shall be held to be the minimum requirements for the promotion of the health, safety, morals, and general welfare of the Borough of Hunker. It is not intended to interfere with or abrogate or annul other rules, regulations or ordinances of the Borough of Hunker except that where this Chapter imposes a greater restriction upon the use of buildings or premises or upon the height of a building, or requires larger open spaces than are imposed by such other rules, regulations or ordinances, the provisions of this Chapter shall control.

(*Ord. 37, 7/6/1970, §103*)

§27-104. Availability of Ordinance.

This Chapter, including the Zoning District Map, together with any succeeding amendments thereto, shall be on file and may be viewed by any interested person contacting either the Zoning Officer or the Borough Secretary.

(*Ord. 37, 7/6/1970, §106*)

Part 2**Rules and Definitions****§27-201. Rules.**

For the purpose of this Chapter, the following terms and words are herein defined. Words used in the present tense include the future tense; the singular number includes the plural and vice versa; the words “used by” shall include the meaning “designed or redesigned for.”

(Ord. 37, 7/6/1970, §201)

§27-202. Definitions.

Accessory use—a use customarily and clearly incident and subordinate to the principal use of the main structure or the land, such as the following;

A. Greenhouse, accessory to a dwelling and used exclusively by the occupants of the premises to cultivate plants as an avocation.

B. Home occupation, in a dwelling or an accessory building, not employing any persons other than the occupants of the premises, not displaying any advertising, no windows or displays that would distinguish it as a business rather than a residence, and is not objectionable because of odor, smoke, noise, dust, vibration or other similar cause.

C. Home office for a recognized profession, situated in a dwelling unit which is the home of the practitioner, provided that not more than one assistant is employed.

D. Loading space.

E. Minor garage or parking space.

F. Farm building.

Accredited substandard lots—a lot in a residence district, of less area than prescribed for a one-family dwelling, and by documentary evidence proves conclusively to the Administrator of this Chapter to be in separate and different ownership from that of all land which abuts it and has thus separately and differently been owned prior to and since the enactment of this Chapter.

Basic grade—in the case of a structure abutting a front yard, the average elevation of the proposed grade line of the ground at the front of the structure as shown on the construction plans; in the case of a structure abutting the front property line, the elevation of the curb in front of the center of the structure, or if there be no curb, the elevation of the proposed grade line at the center of the front lot line; in case no grade line is established, the actual existing grade of the traveled roadway shall apply.

Building—a structure having a roof supported by columns or walls used for the housing or enclosure of persons, animals or chattels.

Main—the building housing the principal use of the lot on which it is located.

Garage—a building or portion thereof used for the storage and/or service of motor vehicles.

Minor—a detached accessory building, or portion of a main building, for the parking or temporary storage of automobiles belonging to the occupants of the premises.

Community—a group of minor garages, one story in height, arranged in a row or surrounding a common means of access, and erected for the use of the residents, customers, or persons engaged in conduct of establishments in the immediate vicinity of its location.

Major—any garage not included within the definition of minor or community garage.

Height of building—the vertical distance measured from the basic grade to:

- (1) The highest portion of the roof adjacent to the front wall for flat roof.
- (2) The deck line of mansard roofs.
- (3) The mean height between eaves and ridge for gabled, hipped, or gambrel roofs.

Conditional use—any use, other than those listed in this Chapter, that is permitted after petitioning the Zoning Hearing Board and adhering to certain restrictions as laid down by the Zoning Hearing Board.

Dwelling—any building or portion thereof, which is used for residence, except hotels.

One-family dwelling—a detached building, used by only one family.

Two-family dwelling—a dwelling used by two families.

Multi-family dwelling—a dwelling used by three or more families.

Rooming house—a building or portion thereof, other than a hotel containing not more than one dwelling unit, where lodging is provided for not more than three persons in addition to the family unit.

Family—either an individual, or two or more persons related by blood or marriage or adoption, or a group of not more than five persons not so related (not counting servants) living together as a single household.

Lot zoning—a parcel of land, fronting on a street, which is or may be occupied by a main building or structure, or a unit group of buildings, and accessory uses, with the open spaces required by this Chapter.

Buildable area—that portion of a Zoning lot bounded by the front, side and rear yards: when a yard is not required, the boundary is the lot line.

Lot area—the total space within the boundary lines of a zoning lot, not including any part of the street or alley.

Lot width—the distance between the side lines of the zoning lot measures at the shortest distance at or between the front and rear building lines as determined by the prescribed front and rear yard requirements.

Nonconforming sign—a sign lawfully existing at the time of the enactment of this Chapter which does not conform to the sign regulations applicable in the district in which it is located.

Nonconforming use—a use of a structure or land lawfully existing at the time of the passage of this Chapter, or as later amended, which does not conform to the use regulations applicable to the zoning district in which it is located.

Parking area—an open space, other than a street or way, used exclusively for the parking of automobiles.

Minor—a parking area which is an accessory use on the same zoning lot.

Community—a parking area used exclusively by the residents, customers, or the persons engaged in conduct of establishments in the immediate vicinity of its location.

Shed—an accessory, rectangular four-sided structure with a footprint of 120 square feet or less, a roof no higher than 12 feet from grade at its highest point and not permanently affixed to the real estate, the primary use of which is storage and not work space. A shed may not be used for the storage of a licensed motor vehicle. [Ord. 2014-01]

Special exceptions—any exception-made by the Zoning Hearing Board in favor of the owner or occupancy of a certain piece of property who cannot meet the minimum requirements of this Chapter due to:

- A. An extreme slope or other contour not conducive to the normal use of his or her property.
- B. The natural flow of a creek.
- C. A previous commitment for a right-of-way.
- D. Property lines established before the enactment of this Chapter.

Street—a strip of land, at least 10 feet wide, over which the owners of abutting property have the right of light, air and access.

Structure—anything built, constructed, or erected, which requires location on the ground or attachment to something on the ground.

Swimming pool, private—any accessory structure that contains water over 24 inches in depth and which is used, or intended to be used, for swimming or recreational bathing in connection with an occupancy in a residential district and which is available only to the family and guests of the householder. This includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas of rigid construction but does not include blow-up pools which are collapsible and not affixed to the real estate. [Ord. 2014-01]

Trailer—a vehicle used for living or sleeping purposes, and standing on wheels or rigid supports.

Trailer courts—a tract of land where two or more trailers are parked.

Yards—an open space on a lot, other than a court, unoccupied and unobstructed from the ground to the sky except as otherwise provided.

Front yard—a yard extending across the full width of the lot and abutting the front lot line, the required depth of which yard is a prescribed minimum distance between the front lot line and a line parallel thereto on the lot.

Rear yard—a yard extending the full width of the lot and abutting the rear lot line, the required depth of which is a prescribed minimum distance between the rear lot line and a line parallel thereto on the lot.

Side yard—a yard abutting a side lot line, extending from the front yard to the rear yard, the required width of which yard is the prescribed minimum distance between the side lot line and a line parallel thereto on the lot.

Variance—any deviation from the strict application of the requirements of this Chapter as sanctioned by the members of the Zoning Hearing Board.

(*Ord. 37, 7/6/1970, §202; as amended by Ord. 2014-01, 10/2/2014*)

Part 3

Classification of Districts

§27-301. Classes of Districts.

The Borough of Hunker is hereby divided into four classes of districts for the purpose of applying the provisions of this Chapter. These district classifications are as follows:

Class	Name
"R-1"	Residential #1
"R-2"	Residential #2
"C"	Commercial
"M"	General Industrial

(Ord. 37, 7/6/1970, §301)

§27-302. Zoning District Map.

The boundaries of the districts listed above are designated on the Zoning District Map, which, together with all the information recorded thereon, is hereby made a part of this Chapter.

(Ord. 37, 7/6/1970, §302)

§27-303. Boundaries of Districts.

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

- A. Where the indicated boundaries on the Zoning District Map are approximately lot lines or property lines, said lines shall be construed to be the boundaries of such district, unless otherwise indicated.
- B. Where the indicated boundaries on the Zoning District Map are approximately public rights-of-way, the center lines of said public rights-of-way shall be construed to be the boundaries.

(Ord. 37, 7/6/1970, §303)

Part 4**Residential #1-R-1****§27-401. Use.**

The land and structures in this area may be used, erected, altered, enlarged, and maintained for the following uses only:

- A. One- and two-family dwellings.
- B. General gardening and/or landscaping.
- C. Home occupation or profession carried on within a dwelling unit by the resident thereof; provided:
 - (1) There is no person employed, no displays and no signs larger than 1 foot by 2 feet with a single light.
 - (2) In connection with a home office, there be not more than one assistant employed.
 - (3) The home occupation or professional use does not occupy more than 25 percent of the floor area and does not require any external alterations or involve construction features not customary or familiar in a home dwelling.
 - (4) Adequate off-street parking must be provided for customers of the resident of said home business.
- D. Non-profit playground or other recreational park or area.
- E. Special exceptions, as permitted by the Zoning Hearing Board.

(Ord. 37, 7/6/1970, §401)

§27-402. Height.

Maximum height of structures in this district shall be:

- A. Thirty-five feet for units not exceeding 2½ stories and for one- and two-family dwellings only.
- B. Forty-five feet for units not exceeding 3 stories and listed as “other main buildings” under special exceptions.
- C. Fifteen feet for units not exceeding one story and used for an accessory structure.

(Ord. 37, 7/6/1970, §402)

§27-403. Area.

Each lot in this district shall comply with the following minimum requirements except as otherwise provided:

- A. Front yard depth—minimum of 20 feet. (Porches are part of the house and cannot extend into the minimum front yard area.)
- B. Side yard width—minimum of 10 feet on each side; or if a corner lot, not less than the depth of front yard.

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- C. Rear yard—minimum of 15 feet.
 - D. There must be a minimum of 7,500 square feet per dwelling.
 - (1) Minimum width of lot must be 75 feet.
 - E. Special exceptions for accredited substandard lots:
 - (1) Front yard must be 20 feet as on standard lot, except as provided in §27-903.
 - (2) Rear yard must be 15 feet.
 - (3) Side yard must be 15 percent of total lot width on each side.

(Ord. 37, 7/6/1970, §403)

Part 5**Residential #2-R-2
Multiple Family Dwellings****§27-501. Use.**

The land and structures in this area may be used, erected, altered, enlarged and maintained for the following uses only:

- A. Any of the uses defined under the R-1 category.
- B. Multiple family dwellings not exceeding six units. [*Ord. 2014-01*]
- C. Trailer courts provided:
 - (1) There is a minimum area of 30 feet by 100 feet for each trailer unit.
 - (2) All trailers be provided with connections for electricity, water and sanitary sewerage facilities.
 - (3) All requirements of R-2 District which do not conflict with the above shall apply.
- D. Special exceptions as permitted by Zoning Hearing Board.

(*Ord. 37, 7/6/1970, §501; as amended by Ord. 2014-01, 10/2/2014*)

§27-502. Height.

Maximum height of structures in this district shall be:

- A. Thirty-five feet for units not exceeding 2½ stories and for one- and two-family dwellings only.
- B. Forty-five feet for units not exceeding 3 stories and listed as “other main buildings” under special exceptions.
- C. Fifteen feet for units not exceeding one story and used as an accessory structure.

(*Ord. 37, 7/6/1970, §502*)

§27-503. Area.

Each lot in this district shall comply with the following minimum requirements except as otherwise provided by a special exception:

- A. Front yard depth—minimum of 20 feet. (This area cannot be used for parking of vehicles.)
- B. Side yard width—minimum of 10 feet on each side or, if a corner lot, street side not less than the depth of front yard.
- C. Rear yard—15 feet minimum.

In multiple dwelling units, an off-street parking space at side or rear of dwelling unit of at least 8 feet by 20 feet must be provided per unit and a minimum of 2,000 square feet of lot area per family unit.

(*Ord. 37, 7/6/1970, §503*)

Part 6**Commercial-C****§27-601. Use.**

1. In this district, the land and structures may be used, and structures may be erected, altered, enlarged and maintained for commercial uses listed hereunder (including in, each instance, unit group building development). Each enterprise shall:

- A. Be conducted entirely within an enclosed building unless otherwise specifically stated.
- B. Be not objectionable because of odor, smoke, soot, noise, vibration/glaring lights, or similar causes.
- C. Not exceed a gross floor area of 10,000 square feet.

2. In this Commercial District the uses shall, in addition to conforming to any and all regulations pertaining thereto that are specifically set forth in this Chapter, be in accordance with a site plan or plans approved by the Zoning Hearing Board or Zoning Officer. The site plan shall for any commercial enterprise show, as proposed, the location of main and accessory structures on the site; and, in relation to one another, traffic circulation features within the site; the location of vehicular access into the site; the height and bulk of structures; the provision of automobile parking space; the provision of other open space on the site; the landscaping, paving, fencing and walls on the site; and the display of signs.

3. In approving the site plans, the Zoning Hearing Board or Zoning Officer may act on site plans submitted to it or may act on its own initiative in proposing the approving of a site plan.

4. In considering any site plan hereunder, the Zoning Hearing Board, or Zoning Officer, shall endeavor to assure safety and convenience of traffic movement both within the site covered and in relation to access street, harmonious and beneficial relationship of structure and uses on the site as well as adjacent properties. To this end, the Zoning Hearing Board or Zoning Officer may limit vehicular access by plan.

(*Ord. 37, 7/6/1970, §601*)

§27-602. Permitted Uses.

- 1. Any use permitted under Residential #1 (R-1) or Residential #2 (R-2).
- 2. Shop for the sale of any of the following commodities:
 - A. Beverages.
 - B. Books.
 - C. Confections.
 - D. Drugs.
 - E. Electrical appliances.
 - F. Televisions.
 - G. Phonographs.

- H. Flowers.
- I. Foodstuffs.
- J. Hardware.
- K. Notions.
- L. Novelties.
- M. Periodicals.
- N. Shoes.
- O. Sundry household articles.
- P. Tobacco.
- Q. Wearing apparel.

Provided, that there be no manufacturing or processing except that which is incidental and essential to an enterprise in which merchandise is sold at retail primarily on the premises.

3. Automobile service station including automobile car washing enterprise provided:

A. Such activities as car washing and waxing and polishing or greasing shall be conducted entirely within an enclosed building.

B. No stand, rack or other equipment other than in direct connection with merchandise offered for sale shall be manifest outside a completely enclosed building.

C. Outside storage of any vehicle is not permitted.

- 4. Barber shop or beauty laundry.
- 5. Beverages, retail or wholesale, distribution of.
- 6. Clothes pressing and repair.
- 7. Financial institution.
- 8. Funeral home or mortuary.
- 9. General photography (including blueprinting and photostating).
- 10. Laundry agency, or a hand laundry or laundry operated by coin.
- 11. Office for recognized profession.
- 12. Optician shop.
- 13. Pawnshop.
- 14. Printer's shop.
- 15. Real Estate office.
- 16. Restaurant.
- 17. Shoe repair shop.
- 18. Tailor shop.
- 19. Conditional uses as permitted by the Zoning Hearing Board.
- 20. Special exceptions permitted:
 - A. Extension of a nonconforming use within a nonconforming structure, or the

change of such use within a nonconforming structure to a conforming use or to another nonconforming use that is determined to be no more detrimental to the neighborhood.

B. Temporary structure or use in connection with an authorized use— need not be within an enclosed building.

21. Accessory use need not be within an enclosed building.

22. Signs, as prescribed, need not be within an enclosed building.

23. Required automobile parking space and loading space, as prescribed, need not be within an enclosed building.

(*Ord. 37, 7/6/1970, §602*)

§27-603. Height.

The maximum heights of structures, except as otherwise provided, in this zone shall be:

A. Thirty feet not exceeding 2 stories for a main structure.

B. Fifteen feet not exceeding 1 story for accessory structure.

(*Ord. 37, 7/6/1970, §603*)

§27-604. Area.

Each lot in this zone shall comply with the following minimum requirements, except as otherwise provided:

A. Side yard width—none required except in the following instances:

(1) When side property line abuts on a property with a residential building on it:

(a) Residential buildings must adhere to restrictions under Residential #2.

(b) Commercial buildings must have minimum side yard depth of 10 feet.

(2) A side yard abutting a street not less in width than the depth of front yard required on the adjoining lot on that street.

B. Rear yard depth—15 feet, when rear line abuts a residential property.

C. No main structure shall be closer than 15 feet to a street or property in another zoning district.

D. In multiple dwelling units, an off-street parking space at side or rear of dwelling unit of at least 8 feet by 20 feet must be provided per unit and a minimum of 2,000 square feet of lot area per family unit. [*Ord. 2014-01*]

(*Ord. 37, 7/6/1970, §604; as amended by Ord. 2014-01, 10/2/2014*)

Part 7**General Industrial-M****§27-701. Use.**

1. In this district, the land and structures may be used, and structures may be erected, altered, enlarged and maintained for the following uses only; provided, such use shall not be objectionable because of odor, dust, smoke, noise, fumes, refuse matter or water-carried waste:

A. Manufacturing, fabricating, compounding, assembly, or treatment of articles of merchandise, excepting explosives such as fireworks or munitions.

B. Manufacturing, processing, packaging or treatment of such products as beverages, cosmetics, drugs, foods; except, rendering of fats and slaughter of animals.

C. Plumbing, heating, electrical, general or building contracting business.

D. Wholesale or distribution establishment.

E. Freight or trucking terminal.

F. Automobile sales and service.

G. Public utility corporation buildings, structures, facilities and installations.

H. Other uses similar to above but not including garbage or refuse disposal, nor automobile junkyards.

I. All uses in this area must comply with minimum state pollution control regulations.

J. Special exceptions as permitted by the Zoning Hearing Board as provided in sectional definitions.

2. In this General Industrial District, the uses shall, in addition to conforming to any and all regulations pertaining thereto that are specifically set forth in this Chapter, be in accordance with a site plan or plans approved by the Zoning Hearing Board or Zoning Officer. The site plan shall for any general industrial enterprise show, as proposed, the location of main and accessory structures on the site; and in relation to one another; traffic circulation features within the site; the location of vehicular parking space; the provision of other open space on the site; the landscaping, paving, fencing and walls on the site; and the display of signs.

3. In approving the site plans, the Zoning Hearing Board or Zoning Officer may act on site plans submitted to it or may act on its own initiative in proposing the approving of a site plan.

4. In considering any site plan hereunder, the Zoning Hearing Board or Zoning Officer shall endeavor to assure safety and convenience of traffic movement both within the site covered and in relation to access streets, harmonious and beneficial relationship of structure and uses on the site as well as adjacent properties. To this end, the Zoning Hearing Board or Zoning Officer may limit vehicular access by plan.

(Ord. 37, 7/6/1970, §701)

§27-702. Area.

Each lot in this district shall comply with the following minimum requirements except as otherwise provided:

A. Front yard depth—a front yard, a minimum of 15 feet in depth, landscaped and properly maintained, shall be required for all uses in the “M” General District.

B. Side yard width—none required except in the following instances:

(1) When abutting another zoned district 15 feet, landscaped and maintained.

(2) A side yard abutting a street—not less in width than the depth of front yard required on the adjoining lot on that street.

C. Rear yard depth—15 feet, landscaped and maintained when abutting a residence district; otherwise, none required.

(Ord. 37, 7/6/1970, §702)

§27-703. Parking.

Off-street parking must be provided by all industrial enterprises.

(Ord. 37, 7/6/1970, §703)

Part 8**Community Park****§27-801. Delineation and Use.**

1. The area bounded by Bridge Street, Constitution Avenue, Division Street and Olive Avenue (formerly the old school and playground) is set apart from the zoned districts. It shall be permanently reserved for the use of the people of this community as a civic, recreation and park area.

2. Under no condition may this area be used for private enterprise or private gain.

3. It is the Borough Council's responsibility to control any deviation from "community use" of this area and to maintain and protect this property in the citizens' interest.

A. Service organizations, such as Fire Department, Woman's Club, or Lion's Club, shall be permitted use of this area only with Council's sanction and providing it creates no expense to the citizens.

B. All other organizations not classified as "service" shall be required to pay a rental fee for the use of this community property.

4. Consideration shall be given to the beautification and development of this area with respect to the following:

A. Landscaping.

B. Parking.

C. Playground facilities.

D. Building maintenance.

E. Walks and paths.

F. Benches.

G. Stage for entertainment and other community programs.

5. To expedite this development, the Borough Council may attempt to use the suggestions, talents and voluntary help of local citizens and may appoint a Recreation Board of not less than three members to aid in this development and in this administration of programs.

(Ord. 37, 7/6/1970, §801)

Part 9**General Provisions and Exceptions****§27-901. General Use Provisions and Exceptions.**

1. All land annexed to the Borough after the effective date of this Chapter other than the annexation pending at the effective date and included in the Zoning District Map, shall be classified automatically as "R-1" Residence District. The Planning Committee shall recommend to Borough Council appropriate zoning for the annexed area within not more than 6 months after the effective date of annexation; and until Borough Council has adopted a zoning plan, the provisions of §§27-904 and 27-905 relative to nonconformity shall not apply to such annexed area.

2. The regulations of this Chapter shall not apply to any existing or proposed structure or use or extension thereof, used or to be used by a public utility corporation, it upon petition of the corporation the Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the structure in question is reasonably necessary for the welfare of the public.

3. Where the term "other uses similar to the above" is mentioned, it shall mean other uses which in the judgment of the Zoning Hearing Board as evidenced by a written decision, are similar to and not more objectionable to the general welfare than uses listed in the same section. Any "other uses" so determined by the Board shall be regarded as listed uses. In no instance, however, shall the Board determine, nor shall these regulations be so interpreted that a use shall be permitted in a district when such use is specifically listed as first permitted in a less protected district; i.e., a use specifically listed in an "R-2" District shall not be permitted in an "R-1" District.

(Ord. 37, 7/6/1970, §901)

§27-902. General Height Provisions and Exceptions.

1. The permitted heights of buildings and structures shall be measured from the basic grade as herein defined. On a corner lot the basic grades shall be the mean of the basic grades of both frontages. On a through lot, the basic grades of each frontage shall control the permitted height of the building to one half the depth of the zoning lot.

2. A building conforming to the use, but not complying with the height regulations of the district in which it is located, may be restored if damaged or partly destroyed by fire, flood, wind or other calamity or act of God (under same conditions as provided for in §27-903.6).

(Ord. 37, 7/6/1970, §902)

§27-903. General Area Provisions and Exceptions.

1. Any portion of a lot once used as a yard, or as lot area per family in compliance with the area requirements of the district regulations of this Chapter, shall not be counted again as required yard or lot area per family for another structure.

2. Where a zoning lot:

A. Abuts the side lot line of only one lot occupied by a main building less than

20 feet from the abutting side lot line, the front yard requirement of such zoning lot may be the average depth of the front yard of the abutting occupied lot, and the depth required in the district.

B. Abuts on both sides, lots occupied by main building less than 20 feet from the abutting side lot lines, the front yard requirements of such zoning lot may be the average depth of the front yards of the abutting occupied lots.

3. On a through lot, the rear yard depth shall not be less than, but need not exceed, the required depth of front yard in the district in which such lot is located.

4. A buttress, chimney, cornice, pier, or pilaster, projecting no more than 12 inches from the wall of the building, may project into a required yard.

5. Public service lines for the transportation and distribution and control of water, electricity, gas, oil, steam, telegraph and telephone communications, or railroad trackage, and supporting members other than buildings shall not be required to be located on an individual zoning lot nor be held to reduce the required yard dimensions for other structures on a zoning lot.

6. A building conforming as to use but not complying with the area regulations of the district in which it is located may be restored if damaged or destroyed by fire, flood, wind or ether calamity or act of God provided that such restoration is started within 1 year of the occurrence of the damage and diligently prosecuted to completion. If restoration has not begun or been carried out in a continuous manner within a 1-year period, all nonconforming conditions shall be discontinued.

(*Ord. 37, 7/6/1970, §903*)

§27-904. Nonconforming Uses.

1. The nonconforming use of land (where such use is the principal use of the lot and no main building or structure is involved) existing at the effective date of this Chapter, may be continued for a period of not more than 3 years therefrom, provided there shall be no expansion or extension of such use, and if any such use is discontinued, the future use of said land shall be in conformity with the provisions of this Chapter.

2. The nonconforming use of a building or structure (except a sign) existing at the effective date of this Chapter may be continued, but shall not thereafter be changed to a less protected use. No structural alterations shall be made other than those ordered by an authorized public officer to assure the safety of the building or structure, except as otherwise provided.

3. A nonconforming use of a building or structure or portion thereof shall not be expanded or extended into or onto any other lot or parcel of ground other than the lot or parcel on which said use is situated at the time of passage of this Chapter. Whenever a nonconforming use of a building or structure has been discontinued for a period of a least 1 year, or abandoned for any length of time, or changed to conforming use, the nonconforming use shall not thereafter be reestablished, and the future use shall be in conformity with the provisions of this Chapter.

4. A nonconforming use of a building or structure which is damaged or destroyed by fire, flood, wind or other calamity or act of God may be restored and its previous occupancy or use resumed provided such restoration is started within 1 year of the

occurrence of the damage and diligently prosecuted to completion. If restoration has not begun or been carried on in a continuous manner within the 1-year period, all nonconforming uses shall be discontinued.

5. A nonconforming use which complies with all of the provisions of this Chapter except the yard requirements may be extended, enlarged, or improved as long as it complies with all the provisions of this Chapter excepting yard requirements. However, the extension, enlargement or improvement shall not encroach further on the yards required by this Chapter.

6. A use permitted in an "R-1" Residence District and located in a "C" Commercial District or an "M" Industrial District may be extended, enlarged and improved in conformance with the regulations of the district in which it is located except in use restrictions.

(*Ord. 37, 7/6/1970, §904*)

§27-905. Nonconforming Signs.

Nonconforming signs shall be removed or made to conform within 5 years of the effective date of this Chapter.

(*Ord. 37, 7/6/1970, §905*)

§27-906. Sheds.

Sheds, conforming to the definition in §27-201 herein, are permitted accessory uses in all districts. Sheds shall not be subject to the minimum building setback lines otherwise provided but may be placed in the side or rear yards not less than 2 feet from the property line or public street right of way line. Garages and carports for storage of licensed motor vehicles shall be subject to the same setback requirements as sheds when placed in a side or rear yard.

(*Ord. 37, 7/6/1970, as added by Ord. 2014-01, 10/2/2014*)

§27-907. Swimming Pool, Private.

A private swimming pool, as defined in §27-201 herein, shall be permitted as an accessory use to any permitted residential use, provided that:

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

B. All swimming pools, as defined in §27-201 herein, having a potential for water depth of 24 inches or more shall have erected immediately adjacent to or as a part of the swimming pool a wall or fence at least 36 inches above the highest level of the swimming pool; but, in no event shall a swimming pool be required to have a height in excess of 48 inches when the pool and fence are measured together. Access to the pool may be controlled by a use of a gate, which must be securely locked when the pool is not in use, so as to prevent entry into the pool unless such entry is authorized by the owner of said pool.

C. In the event that a deck is used in conjunction with the pool, the minimum height requirement of 48 inches must be observed, and the stairway or ladder leading to the deck must be securely locked at all times so as to prevent entry into the pool unless such entry is authorized by the owner of said pool.

D. No swimming pool having a potential water depth in excess of 24 inches shall be drained onto the surface. It is required for drainage that a hose be used leading from the swimming pool to a sanitary sewer point of entry.

E. Swimming pools are permitted in the side or rear yards only and are not subject to the building setback lines but may be erected not less than 2 feet from the property or public right of way line.

(Ord. 37, 7/6/1970; as added by Ord. 2014-01, 10/2/2014)

§27-908. Fences.

1. *Construction, Etc.; Permit Required.* No person, corporation, partnership, company or other entity shall construct, install, add to or alter a fence in the Borough, unless a permit is secured therefore.

2. *Height Limitations.* No fence shall be constructed which exceeds any of the following height limitations:

A. Forty-two inches in front of the building line applicable to the subject property.

B. Seventy-two inches behind the front building line applicable to the subject property, except as otherwise provided in paragraph .C, below.

C. Forty-two inches wherever the fence shall be located on any portion of any lot that abuts a street, intersection or common drive that empties onto a public street.

D. Eight feet in any industrial zoning district.

3. *Barbed Wire and Other Unsafe Fencing Prohibited.* Barbed wire and all other fencing that is designed to cut or injure is prohibited in all residential districts. In zoning districts other than residential, such fencing shall not be permitted, unless a request is made to Council and approved by a majority vote at a public Council meeting.

4. *Construction Standards.* All fences erected must be of good quality and must be firmly and sturdily footed in the ground. The decorative side of the fences must face outward.

5. *Treatment of Metal Fences.* Any fence erected which is made of a metal fabric or which is partially made of any metal fabric shall be galvanized or otherwise treated to prevent the formation of rust, and the metal used in the fabric shall be at least 11 gauge or heavier, unless it is subject to the provisions of subsection .9 regarding the gauge of metal fences around pools.

6. *Maintenance; Sturdiness.*

A. All fences shall be maintained in a sturdy and good condition. Fences which become loose, rusted or rotted, whether in whole or in part, shall be repaired, replaced or removed.

B. Any fence that cannot support the weight of 150-pound man without bending, breaking, leaning or moving shall be deemed not to be sturdy.

7. *Variances.*

A. Any property owner or tenant desiring to erect a fence or maintain a fence which does not conform to the provisions of this Chapter may apply for a variance from the Zoning Hearing Board of the Borough.

B. All requests for a variance shall be according to the procedures and governing provisions of this Chapter and the laws of the Commonwealth.

8. *Proximity to Lot and Curb Lines.* Fences may be erected on the property or right of way line. Fences may be erected next to the sidewalk; but, in the event no sidewalk exists, the fence must be erected no less than 6 feet from the curb. No fence in the front yard shall be higher than 42 inches.

9. *Fences Surrounding Pools or Other Structures.*

A. All pools, swimming pools, water retention basins and other structures, temporary or permanent and above or below ground, which may hold water, shall be surrounded by a fence, except as provided in paragraph .D hereof.

B. Fences required by paragraph .A hereof may surround the pool or the property. The wall of a building may constitute a portion of the fence. Such fences shall be adequate to make the structure containing the water inaccessible to small children.

C. Fences required by paragraph .A hereof shall not be less than 42 inches in height and shall be subject to the height limitations imposed in subsection .2. Further, such fences shall be constructed out of any of the following materials:

(1) Masonry or brick.

(2) Wire mesh, a minimum of nine gauge with posts not more than 10 feet apart.

(3) Pickets, not less than $\frac{3}{4}$ of an inch thick if wood or 20 gauge if metal, with posts not more than 10 feet apart.

(4) All gates or door openings through any fence required to be erected under this Section shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door for any dwelling which forms a part of the fence enclosure need not be so equipped.

D. Structures which are not capable of holding water in excess of 2 feet in depth need not be surrounded by a fence if the structures are emptied of all water when not in use, or are securely and adequately covered to prevent small children from uncovering the pool when not in use.

10. All fences erected in front of the front building setback line and fences which are erected at the intersection of streets or alleys shall be see-through so as not to obstruct vision in the clear sight triangle required for motorists.

11. *Permit Fee.* The fee for a permit for construction, installation, addition or alteration of any fence shall be in an amount as established from time to time by resolution of Borough Council.

(Ord. 37, 7/6/1970; as added by Ord. 2014-01, 10/2/2014)

Part 10**Signs and Lights****§27-1001. “R” Districts.**

In the “R-1” and “R-2” Residence Districts, only the following signs shall be permitted:

- A. A sign not exceeding 1 foot by 2 feet in area, used to display and identify only the name of the individual, profession, organization, or institution occupying the premises.
- B. A bulletin board not exceeding 8 square feet in area, indicating the services of a church or institution, including the church or institution's name, if desired.
- C. A sign not exceeding 8 square feet in area appertaining only to the rental, lease, or sale of the property on which it is displayed.

(Ord. 37, 7/6/1970, §1001)

§27-1002. “C” District.

In the “C” Commercial District, only the following signs shall be permitted:

- A. Signs permitted in “R” Districts.
- B. Signs displayed on the inside of the building.
- C. A sign which directs attention to a business, commodity, service or entertainment, conducted, sold, or offered on the premises:
 - (1) Attached to a main wall of a main building, projecting not more than 12 inches therefrom, and with no portion less than 10 feet above the basic grade. If not projecting from a wall of a building, the sign need not conform to the 10-foot height limit.
 - (2) Not attached to a building, but within the buildable area of the lot (except that it may be in the front yard or a side yard abutting a street in a “C” District), erected with no portion less than 10 feet nor more than 20 feet above the ground. The sign (or if more than one, the total) shall not exceed 60 square feet in area.
- D. Lights in a “C” Commercial District shall be shielded so as not to reflect on nearby residential properties. No intermittent or flashing lights shall be permitted.

(Ord. 37, 7/6/1970, §1002)

§27-1003. “M” District.

In the “M” General Industrial District only the following signs shall be permitted:

- A. Signs permitted in any other district.
- B. Advertising or business sign not limited as to size or location, except that it shall be within the buildable area of the lot.

(Ord. 37, 7/6/1970, §1003)

§27-1004. General Sign and Light Provisions.

1. No sign established before the effective date of this Chapter shall be repaired (except when ordered by an authorized public officer as a safety measure), repainted, altered in any major respect, or moved, unless it be made to conform with the provisions of this Chapter.

2. No sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered only elsewhere than on the premises where it is displayed shall be established nearer than 300 feet to a residence district.

3. In any district, signs limited to 50 square feet in area used to indicate the location or direction of real estate development may be erected for a period of 6 months on the approval of the Zoning Officer.

4. Lights in all districts shall be shielded so as not to reflect on nearby residential properties.

5. Lights on all signs or other advertising media on the premises of all nonconforming uses shall be shut off at 10 p.m. and remain off throughout the night.

(Ord. 37, 7/6/1970, §1004)

Part 11**Zoning Hearing Board****§27-1101. Creation and Membership.**

A Zoning Hearing Board is hereby established. The word “Board” when used in this Chapter shall be construed to mean the Zoning Hearing Board. The Board shall consist of three members to be appointed by Borough Council. One member shall be designated to serve until the first Monday of January 1971; one until the first Monday of January 1972; and one until the first Monday of January 1973. Their successors shall be appointed on the expiration of their respective terms, to serve three years. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. A member may hold no other municipal office.

(*Ord. 37, 7/6/1970, §1101*)

§27-1102. Meetings.

Meetings of the Board shall be held at least once each year and at such other times as the Board may determine, but within 30 days of a business's or citizen's written request for a hearing, or as may be required by the Municipalities Planning Code, 53 P.S. §10101 *et seq.* All meetings other than executive sessions shall be open to the public. Quarters for the Board (office space with light and heat, necessary supplies, clerical and other services as required) shall be provided by Borough Council. The Board shall appoint a Secretary who shall keep its records. The Board shall adopt its own rules of procedure and keep a record of its proceedings showing the action of the Board and the vote on each question considered; all of which shall be filed and become a public record.

(*Ord. 37, 7/6/1970, §1102; as amended by Ord. 2014-01, 10/2/2014*)

§27-1103. Appeal.

1. Any order, requirement, decision, or determination made by the Zoning Officer in the administration or enforcement of the provisions of this Chapter may be appealed to the Board by any person aggrieved, or by any Township officer affected by any decision of the Zoning Officer. The taking of an appeal shall stay proceedings in the matter appealed from until the determination of the appeal. The appellant shall file with the Zoning Officer and with the Board a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board all papers constituting the record on which the action appealed from was taken.

2. On receipt of the record, the Board shall set the matter for public hearing, shall serve notice on the parties, and shall not adjudicate until such hearing has been held. The notice of the time and place of the public hearing shall also state the location and general nature of the question involved, and shall be given not less than 7 days prior to the date of such hearing by the following method:

A. By mailing a notice thereof to the owners of all property within 200 feet of the affected site, using for this purpose the last known name and address of such owners as shown on the records of the existing tax assessing authority.

B. By mailing a notice thereof to every association of residents or owners who shall have registered an association name with the Board for this purpose.

C. By publishing a notice thereof in a newspaper of general circulation in the Borough.

D. By mailing a notice thereof to each member of Borough Council.

(Ord. 37, 7/6/1970, §1103)

§27-1104. Powers.

1. To hear and decide appeals where it is alleged there is error in any order requirement, decision, or determination made by the Zoning Officer in the administration of this Chapter.

2. To hear and decide the following special exceptions to the terms of this Chapter and to authorize a permit:

A. In any district, for a temporary structure and use in connection with an authorized use for a period not to exceed 1 year and extensions, and only where such structure and use are purely incidental to the authorized use, provided it is demonstrated to the Board that such structure and use are reasonably necessary and that safeguards are established to preserve the amenities of surrounding properties.

B. In "R" Districts, for the erection, alteration, enlargement or use of a building or land for:

(1) A one-family dwelling on a zoning lot without the required off-street parking space, when the Board is satisfied that physical conditions make it impossible to provide parking space on said zoning lot.

(2) A one-family dwelling on a lot, or plot of ground not complying with area regulations of the district in which it is located, when an existing building on the same lot or plot of ground is damaged or destroyed by fire, flood, wind, or other calamity or act of God to the extent of 50 percent or more of its assessed value, provided the Board determines that no main building could otherwise be erected on the same lot or plot of ground in compliance with the area regulations of the district, and that such dwelling would not be seriously out of character with existing buildings in the immediate neighborhood with respect to provision for yards or other open spaces.

C. In the "C" Business District, for the erection, alteration, enlargement or use of a building or land for a community or major garage or parking area, provided the Board determines that the proposed location is such that the use will not be detrimental to the general welfare of adjacent businesses and that the addition of the proposed use will not overly congest abutting streets.

3. To vary or adjust the strict application of the requirements of this Chapter for only a use permitted in the district where the lot is located, in the case of an exceptionally irregular, narrow, shallow, or steep lot or other exceptional physical condition not provided for in the district regulations or as a "special exception" as a result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or structures involved, but in no other case. No variance in the strict application of any provisions of this Chapter shall be granted by the Board unless it

finds:

A. There are special circumstances or conditions, fully described in the findings of the Board, applying to the land or structure for which the variance is sought, which circumstances or conditions are peculiar to such land or structures in the neighborhood, and have not resulted from any act of the appellant or his predecessors in title subsequent to the adoption of this Chapter, whether in violation of the provisions hereof or not:

B. For reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that strict application of the provisions of this Chapter would deprive the appellant of the reasonable use of such land or structure for any of the uses permitted by this Chapter in the district where the lot is located, and the granting of the variance is necessary for the reasonable use of the land or structure for one of the uses permitted in the district, and that the variance as granted by the Board is (1) for a use permitted in the district, (2) one that will require the least modification of the prescribed regulations, and (3) the minimum variance that will accomplish this purpose.

C. The granting of the variance will (1) be in harmony with the general purpose and intent of this Chapter, (2) be in accordance with the general or specific rules herein contained, and (3) not be injurious to the neighborhood or otherwise detrimental to the public welfare.

In granting any variance, the Board shall prescribe any conditions or safeguards applying thereto that it may deem to be necessary or desirable, provided such conditions shall not be construed as modifying or qualifying any of the conditions to be found before a variance may be granted, as set forth above.

4. In exercising the above-mentioned powers, the Board may, in conformity with the provisions of this Part, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made. Notice of such decision shall forthwith be given to all parties in interest. If, after a permit has been authorized by the Zoning Hearing Board, the improvement so authorized has not been started within 6 months from that date, the said authorization shall be null and void.

5. *Filing Fee.* Before accepting for filing any application for appeal to the Board, the Zoning Officer shall charge and collect a fee in an amount as established, from time to time, by resolution of Borough Council. [Ord. 2014-01]

Note: Any person aggrieved by any decision of the Zoning Hearing Board or any municipal officer affected thereby may appeal therefrom within 30 days to the Court of Common Pleas of Westmoreland County.

(Ord. 37, 7/6/1970, §1104; as amended by Ord. 2014-01, 10/2/2014)

Part 12**Administration, Enforcement and Amendment****§27-1201. Zoning Officer.**

The duty of administering and enforcing the provisions of this Chapter is hereby laid on a Zoning Officer who shall have the authority to establish from time to time such rules and regulations as may be deemed necessary properly to exercise the authority and the powers conferred on the said Zoning Officer under the provisions of this Chapter. The duties of the Zoning Officer may be performed by any person specifically assigned to such service by Borough Council.

(*Ord. 37, 7/6/1970, §1201*)

§27-1202. Occupancy and Compliance Permits.

No use of land, other than agricultural and forestry use, shall be made and no structure shall be hereafter erected or structurally altered until a certificate of compliance shall issue, nor shall such structure be occupied and land used until a certificate of occupancy shall have been issued by the Zoning Officer. A certificate of occupancy shall be applied for and shall be issued before an existing use of a building structure or land shall be changed.

(*Ord. 37, 7/6/1970, §1202*)

§27-1203. Record of Certificate and Charges.

1. A record of all certificates shall be kept on file in the office of the Zoning Officer, and copies shall be furnished, on request, to any persons having a proprietary or tenancy interest in the building or land affected.

2. A fee in an amount as established, from time to time, by resolution of Borough Council, shall be charged for each occupancy permit and each compliance permit. [*Ord. 2014-01*]

(*Ord. 37, 7/6/1970, §1203; as amended by Ord. 2014-01, 10/2/2014*)

§27-1204. Application Forms.

All application forms for occupancy and compliance permits shall be made on a printed form to be furnished by the Zoning Officer and shall contain accurate information as to the size and location of the lot; the size and location of the buildings and structures on the lot; the dimensions of all yards and open spaces; and such other information as may be necessary to provide for the enforcement of this Chapter. A file of such applications shall be kept in the office of the Zoning Officer, and a duplicate copy shall be kept at the building at all times during construction.

(*Ord. 37, 7/6/1970, §1204*)

§27-1205. Changes and Amendments.

1. *Procedure.* Whenever the public necessity, convenience or general welfare indicates, the Borough Council may, by ordinance, after report thereon by the Planning

Committee and subject to the procedure provided in this Section, amend, supplement, or change the regulations, district boundaries or classifications of property, as the same are established by this Part (or may hereafter be made a part thereof). Such ordinances for amendment, supplement or reclassification, or change may be initiated by request of one or more members of Borough Council, or by resolution of the Planning Committee, either on its own initiative or on petition from the owners of a majority of the property according to frontage in the district, or reasonable portion thereof, the classification of which is proposed to be changed.

2. *Petition; Form and Content.* Petitions for any change of regulations, district boundaries or reclassification of property, as shown on the Zoning District Map shall be filed with the Planning Committee in the public office of said Committee on forms, and accompanied by such data and information as may be prescribed for that purpose by the Committee so as to assure the fullest practical presentation of facts for the permanent record.

3. *Decision by Committee and Borough Council.* If, from the facts presented and the data and information available from public records, it appears justified or desirable to meet the public needs, promote the public convenience and welfare, the Committee may, in conformity with good zoning practice and the intent and purpose of this Chapter, recommend to Borough Council the amendment, supplement, reclassification or change, as proposed or with modifications. Otherwise, the petition shall be denied. The Committee shall make its findings and determination in writing and shall forthwith transmit a copy thereof to the petitioner. If the change is approved as proposed or as modified by the Committee, an ordinance for the change, together with the Committee's findings and recommendations, shall be forwarded to Borough Council. The Borough Council, after it has conducted a public hearing thereon, with published notice thereof, as provided in the Section, may by ordinance effect such amendment, supplement, change or reclassification, or any change thereof.

4. *Public Hearings.*

A. Subsequent to the introduction in Borough Council of any ordinance amending, supplementing or changing the regulations, district boundaries or classification of properties, and before enactment, there shall be at least one public hearing pursuant to public notice. Such public notice shall be given not more than 30 days and not less than 14 days in advance of the date set for said public hearing and shall be published once each week for 2 successive weeks in a newspaper of general circulation in the Borough. This notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing.

B. An affirmative vote of four members of Council shall be required to adopt such proposed amendment, supplement or change.

(Ord. 37, 7/6/1970, §1205)

§27-1206. Enforcement Notice.

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

2. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to

receive enforcement notices regarding that parcel and to any other person requested in writing by the owner of record.

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

A. The name of the owner of record and any other person against whom the Borough intends to take action.

B. The location of the property in violation.

C. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Chapter.

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

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

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

(*Ord. 37, 7/6/1970; as added by Ord. 2014-01, 10/2/2014*)

§27-1207. Enforcement Remedies.

1. Any person, partnership or corporation who or which has violated the provisions of this Chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the magisterial district judge. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the magisterial district judge determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this Chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the magisterial district judge and thereafter each day that a violation continues shall constitute a separate violation.

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

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

4. Magisterial district judges shall have initial jurisdiction in proceedings brought under this Section.

(*Ord. 37, 7/6/1970; as added by Ord. 2014-01, 10/2/2014*)

