

CHAPTER 27

ZONING

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PART 1

GENERAL PROVISIONS

§27-101. Enactment.

The Borough Council of the Borough of Philipsburg hereby adopts and enacts the regulations, zoning districts, administrative structures and administrative procedures that constitute this Chapter. From and after the approval of this Chapter, the districts specified herein shall be established and the following regulations shall be in full force and effect.

(Ord. 984, 6/14/1999, Art. I, §100)

§27-102. Short Title.

This Chapter shall be known as the "Borough of Philipsburg Zoning Ordinance."

(Ord. 984, 6/14/1999, Art. I, §103)

§27-103. A Reader's Guide to the Organization and Applicability of this Chapter.

1. This Chapter regulates all land uses, lots and structures within the Borough of Philipsburg, except those that are the property of the Borough itself. Every regulated land use, lot or structure must either conform to the rules of this Chapter or be a nonconforming use, nonconforming lot or nonconforming structure. A nonconformity is defined as a use, lot or structure that was legally established before the effective date of this Chapter's enactment (see, §27-106, "Effective Date of This Chapter") and does not conform to the substantive requirements of this Chapter. Because nonconformities were legally established and because their owners could not have known what the regulations of this Chapter were going to be in advance, the owners have a legal and ethical right to continue their nonconformities. However, all nonconformities, except nonconforming signs, are subject to the regulations of §27-116, "Nonconformities." Special regulations for nonconforming signs are given in Part 6, "Signs." All regulated land uses, lots and structures that are neither in conformance with the controls of this Chapter nor nonconformities are illegal and subject to the enforcement procedures specified in §27-118, "Enforcement."
2. Zoning ordinances are always complex due to the complex nature of modern communities. However, this Chapter is organized to be as simple as possible and to minimize the amount of reading required to determine how a property or project is restricted.

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3. All of the provisions in this Chapter that affect Philipsburg's property owners on a daily basis and apply to all properties within the Borough are included in this Part. The Sections in the remainder of this Part explain what the general purposes of this Chapter are, what its basic rules are, when zoning or occupancy permits are needed, how to get these permits, what extra regulations apply to non-conforming uses, what a variance is, how to get a variance, how the Chapter will be enforced, how property owners may contest the Zoning Officer's determinations and how property owners may dispute the validity of this Chapter. Anybody who has a question concerning how this Chapter regulates a property should read this Part..
4. However, many of the regulations in this Chapter should not be applied to all areas of the Borough due to the differing statuses and goals of these areas. So Part 2, Zoning District Provisions, divides the Borough into 8 "zoning districts", each of which is composed of areas with similar present-day statuses and goals and faces a set of regulations that is different than the set faced by every other zoning district. Part 2 then provides this set of regulations for each district, addressing such subjects as permitted land uses, off-street parking and loading facilities, setbacks, building heights, lot designs and more. Although §27-201, "Purposes, Organization and Applicability of This Part" explains how this Part should be read in more detail, a general rule of thumb is that readers who have a question concerning how this Chapter regulates a property need to read only the parts of Part 2 that concern the zoning district of that property.
5. Part 3, "Special Exceptions and Conditional Uses," explains what a special exception use is, reveals what a conditional use is, illustrates the procedures for obtaining permits for these uses, lists the standards that the Zoning Hearing Board is to utilize in determining whether or not to grant a special exception use, and lists the standards that the Borough Council is to employ in determining whether or not to grant a conditional use. Part 4, "Temporary Uses," explains what a temporary use is, illustrates the procedures for obtaining permits for one and lists the standards that the Borough Council is to utilize in determining whether or not to grant it. Part 5, Supplemental Regulations, contains regulations that apply to only some kinds of land uses and structures. Part 6, "Signs," contains all of the Chapter's sign regulations. Part 7 contains the Chapter's administrative provisions that are relevant to Borough officials on a daily basis¹, but not usually to property owners (administrative provisions that are more relevant to property owners are included in Part 1). Part 8, Definitions," provides a glossary of some of the terms used in this Chapter.
6. The Sections in Part 1 apply to every regulated land use, lot and structure in the Borough. Because they address each one of Philipsburg's 8 zoning districts, the Sections in Part 2 also apply to every regulated land use, lot and structure in the Borough. However, the Sections of Parts 3-7 apply only when a provision of either Part 1 or Part 2 explicitly says so. Borough officials should be familiar with this

¹ Note: Such provisions include explanations of the zoning related functions of the Borough's Zoning Officer, Zoning Hearing Board and Council.

entire Chapter, as well as the 1998 Philipsburg Comprehensive Plan. However, anyone who has a question concerning how this Chapter regulates a property only needs to read the following:

- A. Part. 1.
 - B. The Sections of Part 2 that concern the zoning district of the involved property.
 - C. The Sections of Part 3-7 that:
 - (1) Are explicitly referenced by either Part 1 or the Sections of Part 2 that concern the property's zoning district.
 - (2) Are relevant to the reader's specific concern.
7. This Chapter is organized in this manner so that property owners can determine how the use of their property is restricted without reading the entire document.

(Ord. 984, 6/14/1999, Art. I, §106)

§27-104. General Purposes of This Chapter.

- 1. The primary general purposes of this Chapter were developed in and are adopted from the 1998 Philipsburg Comprehensive Plan. This plan develops a set of Comprehensive Goals and Objectives. The members of this set that are relevant to this Chapter are the primary general purposes of this Chapter and are listed below:
 - A. GOAL, To ensure the orderly and efficient future development of Philipsburg Borough, Centre County.
 - B. OBJECTIVES.
 - (1) To develop areas adjacent to existing development, where feasible, to enable the most efficient and economical provision of basic community services.
 - (2) To discourage future "strip" development along highways and streets, and to encourage 'infill' development within the existing Borough and its existing developed areas.
 - (3) To provide adequate oversight of subdivision and land development to assure that public concerns with accessibility, stormwater management, sewage disposal, water supply and other factors are taken into account.

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- (4) To encourage renewal and development in the Central Business District (CBD).
 - (5) To adopt and enforce land use ordinances (e.g., subdivision and land development ordinances, zoning ordinances, historic preservation ordinances, infill standards and building and housing codes, etc.) as found necessary to assure the orderly development of the Borough.
- C. GOAL. To promote harmony between existing development, future development and the natural environment.
- D. OBJECTIVES.
- (1) To identify and reserve prime commercially viable land, particularly in the CBD.
 - (2) To increase recreational opportunities, maintain and rehabilitate recreation facilities and preserve open spaces throughout the Borough.
 - (3) To encourage the preservation of historic sites, buildings and other historic resources throughout the Borough.
 - (4) To enable and promote the creation of clean business and industry with new employment opportunities.
- E. GOAL. To assure that opportunities for adequate housing are available for all residents of Philipsburg Borough.
- F. OBJECTIVES.
- (1) To take the necessary steps to see that the architectural integrity of structures throughout the Borough are preserved.
 - (2) To provide opportunities for the development of all forms of housing within the Borough and to incorporate these opportunities into a Comprehensive Development Plan.
 - (3) To provide for affordable housing through the designation of a special residential zoning district.
- G. GOAL. To assure that a safe and efficient transportation network is maintained within the Borough.
- H. OBJECTIVES. To assure that adequate signage and signalization is provided for all roads and local streets.
- I. GOAL. To provide an ongoing comprehensive community planning process to provide a framework into which the water and sewer planning will fit.

J. OBJECTIVES.

- (1) To guide future development in an orderly manner consistent and compatible with existing development.
- (2) To adopt appropriate land use controls to preserve existing properties and guide future development throughout the Borough.

K. GOAL. To revitalize, conserve and strengthen the Central Business District (CBD) of Philipsburg Borough to regain the downtown as a major shopping and retail center of this region of Centre and Clearfield Counties.

L. OBJECTIVES. To improve vehicular traffic circulation, parking, signage, lighting, etc. on the streets and alleys of the CBD and Borough.

M. GOAL. To promote business expansion and retention with emphasis upon heritage tourism within the Borough and the Moshannon Valley Region.

N. OBJECTIVES.

- (1) To retain existing business and to enable business growth.
- (2) To stimulate the creation of new businesses in the region.
- (3) To attract clean, moderately sized businesses to the Borough.

Note that the 1998 Philipsburg Comprehensive Plan meets all requirements of the Pennsylvania Municipalities Planning Code, Act of 1968, P.L. 805, No. 247 as re-enacted and amended. Adopting the set of community development goals and objectives from this plan as the primary purposes of this Chapter satisfies the requirements of §606 of the Pennsylvania Municipalities Planning Code. The 1998, Philipsburg Comprehensive Plan also develops a land use plan on pages II-B1 to II-B2 that provides a significant amount of guidance for this Chapter.

2. The following goals were used in an auxiliary role to develop this Chapter. Thus, they serve as secondary general purposes of this Chapter:

- A. To protect and promote the health, safety and welfare of both the residents of the Borough of Philipsburg and the general public
- B. To encourage the orderly growth and development of the Borough in accordance with the recommendations of the Borough's Comprehensive Plan
- C. To protect and maintain the character, stability and value of the residential, commercial and industrial areas of the Borough

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- D. To provide adequate light, air and privacy and to prevent the overcrowding of people and structures
- E. To provide protection against fire, explosion, noxious fumes and other hazards in the interest of the public health, safety, comfort and general welfare
- F. To encourage the most appropriate use of the land and structures throughout the Borough through the establishment of land use districts and the regulation of land, activities and structures within these districts
- G. To provide for the gradual elimination of those uses of land, buildings and structures which do not conform to the requirements of the district in which they are located and which adversely affect the development of neighboring properties
- H. To implement the goals, objectives and policies of the Philipsburg Comprehensive Plan

(Ord. 984, 6/14/1999, Art. I, §112)

§27-105. Authorization.

The establishment of zoning districts within municipalities such as the Borough of Philipsburg, the assignment of regulations to these districts and the assignment of administrative structures and procedures to these regulations for purposes like those given in §27-104 of this Part have been authorized by the Pennsylvania Municipalities Planning Code, Act of 1968, P.L. 805, No. 247, as reenacted and amended.

(Ord. 984, 6/14/1999, Art. I, §115)

§27-106. Effective Date of This Chapter.

The effective date of this Chapter's enactment shall be the date that this Chapter was enacted by the Borough Council of the Borough of Philipsburg.

(Ord. 984, 6/14/1999, Art. I, §118)

§27-107. Interpreting the Language of This Chapter.

For the purposes of this Chapter, words shall be interpreted as follows unless noted otherwise:

- A. Words that are defined in Part 8, Definitions, shall be interpreted as they are defined there. Undefined terms must be given their usual and ordinary meaning within the Borough.

- B. Words used in the present tense shall imply the future tense as well.
- C. The word "person" refers to firms, associations, organizations, trusts, partnerships, companies, corporations and individual persons.
- D. The word "shall" infers a mandatory sense.
- E. The word "may" infers a permissive sense.
- F. The word "lot" is a synonym of "plot," "piece" and "parcel."
- G. The words "used" and "occupied" as applied to any lot or building shall be construed to imply the words "intended, arranged, maintained and/or designed to be used or occupied."
- H. The word "day" shall be interpreted as being a full calendar day.
- I. When the meaning of a regulation as it applies to a given property is not clear, it shall be interpreted in favor of that property and against any implied extension of the regulation.

(Ord. 984, 6/14/1999, Art. I, §121)

§27-108. Conflict With Other Regulations.

Where a provision of this Chapter conflicts with a provision of another ordinance, State law or Federal law, the stricter of the two shall apply. Where the applicable provision of this Chapter is the less strict of the two, it shall not apply. However, the remainder of this Chapter shall remain in full force and effect.

(Ord. 984, 6/14/1999, Art. I, §124)

§27-109. Conflict With Floodplain Regulations.

All structures and plans for structures within the Borough's floodplain as defined by the Borough and/or its relevant ordinances are subject to the floodplain regulations enacted by the Borough and/or this Chapter. Furthermore, all structures and plans for structures within the Borough's floodplain as defined by any relevant Federal and State legislation shall be subject to the floodplain regulations imposed by that legislation. Where any such ordinance or law imposes stricter regulations than the relevant parts of this Chapter do, those parts of this Chapter shall be null and void. Furthermore, where the provisions of any such ordinance or law contradict the provisions of this Chapter, the stricter of the two shall apply. In both instances, the parts of this Chapter that are not relevant to the provisions of the other law or ordinance shall remain in effect.

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(Ord. 984, 6/14/1999, Art. I, §127)

§27-110. Applicability of This Chapter to Private Agreements.

This Chapter shall not annul any easements, covenants or private agreements. However, the existence of any such easement, covenant or private agreement shall not affect the enforceability of this Chapter.

(Ord. 984, 6/14/1999, Art. I, §133)

§27-111. Application of Regulations During Local Emergencies.

The Philipsburg Borough Council may temporarily waive some of the regulations of this Chapter during a local emergency.

(Ord. 984, 6/14/1999, Art. I, §136)

§27-112. General Rules for Land Uses and Lots.

All land uses shall be allowed on lots as a permitted principal use, permitted accessory use, special exception use, conditional use and/or temporary use. The actual uses allowed on a lot are a determined by the zoning district of that lot (see §27-212, :Land Uses, Off-Street Parking and Off-Street Loading"). However, the following rules shall apply to the establishment of land uses on lots in all districts:

- A. No permitted accessory use shall be constructed more than 180 days before the use to which it is accessory.
- B. No structure shall be located closer than 5 feet from another structure unless that structure is a fence, is attached to the other structure or forms an integral part of the other structure.
- C. All commercial tanks that contain or carry more than 20 gallons of fuel, lubricants or any other poisonous liquid shall be located at least 10 feet from all property lines and public right-of-ways.

(Ord. 984, 6/14/1999, Art. I, §139)

§27-113. Parking Facilities and Temporary Events.

1. **Parking Facilities and Zoning District Regulations.** All parking facilities are subject to the regulations of the zoning district in which they are located unless this Chapter specifically states otherwise. Furthermore, all parking garages are sub-

ject to the regulations on structures imposed by the zoning district in which they are located.

2. Emergency and Nonprofit Temporary Events. Any parking or loading requirement of this Chapter may be waived by Borough Council for emergency or non-profit temporary events.

(Ord. 984, 6/14/1999, Art. I, §142)

§27-114. Classification of Businesses That Consist of Several Uses.

For the purposes of this Chapter, businesses that consist of several land uses shall be classified as the constituent land use that this Chapter regulates the most strictly. If a land use is not a permitted use in a district, then any business which is partly composed of that land use is not a permitted use in that district.

(Ord. 984, 6/14/1999, Art. I, §145)

§27-115. Zoning Permits.

1. When a Zoning Permit is Needed. Before a property owner may have a nonsign structure erected, reconstructed or moved on his or her lot (unless this Chapter specifically states otherwise) have a nonconforming, nonsign structure reconstructed or moved on his or her lot (unless this Chapter specifically states otherwise), or conduct an activity that the Zoning Officer determines as a result of an application for a building permit or otherwise requires a zoning permit, he or she must obtain a zoning permit. Part 6, "Signs," explains when zoning permits are required for signs. No land improvements or other development activities shall be commenced before the involved property owner has a zoning permit for these activities.
2. Procedure for Obtaining a Zoning Permit. Anyone who wishes to obtain a zoning permit shall follow the procedure below:
 - A. Applications. Applications for a zoning permit shall be submitted in writing on a form prescribed by the Zoning Officer along with payment of the required fees set by Borough Council. Applications shall be submitted with plans prepared in accordance with the Zoning Officer's requirements and shall contain all of the information that is necessary to determine compliance with this Chapter and all other pertinent ordinances and laws. An application shall become a public record when it is officially filed.
 - B. Issuance or Denial of a Permit. An application shall not be officially filed until all required information has been submitted. Within 30 days of this official filing, the Zoning Officer shall either issue or deny the zoning permit. The Zoning Officer shall not issue a permit unless it is determined that the

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proposed development complies with the provisions of this Chapter and all other pertinent ordinances and all other required approvals and permits have been obtained from the applicable Borough, County, State and Federal agencies. If these determinations are made, then the Zoning Officer shall issue a zoning permit. If the Zoning Officer does not act on the application within the required time period, then the permit shall be deemed to be issued.

3. **Vested Rights.** Nothing in this Chapter shall require any change in the development or use of a lot or structure for which a zoning permit was lawfully issued prior to the effective date of this Chapter's enactment (or the effective date of an amendment to this Chapter); provided, that development (other than excavations) has begun or contracts have been let pursuant to the permit. However, any zoning permit which was issued after the first public hearing on this Chapter (or an amendment to this Chapter) but prior to the effective date of this Chapter's enactment (or the amendment's enactment) shall be declared void if the involved development does not conform to the provisions of this Chapter, development (other than excavations) has not begun and contracts have not been let pursuant to the permit.
4. **Development Changes.** If a zoning permit is issued, the involved development shall not deviate from the plans and other information submitted to the Zoning Officer without the written approval of the Zoning Officer or the Borough Council in the case of a conditional or temporary use and the Zoning Hearing Board in the case of a special exception. Requests for all such approvals shall be submitted in writing to the Zoning Officer.
5. **Duration of Zoning Permits.** A zoning permit shall expire within 1 calendar year of the date of issuance if the involved development activities have not been commenced. All development activities must be completed no later than 2 calendar years from the date of issuance.
6. **Inspections.** In order to determine if the information submitted on or with an application is true and is being adhered to, the Zoning Officer shall have the authority to enter any building, structure, premises, property or development in the Borough at any reasonable hour upon presentation of proper credentials.
7. **Revocation of Permits.** If the Zoning Officer discovers that the development does not comply with the approved application or any applicable laws or ordinances, or if the Zoning Officer determines that an applicant has made any false statements or misrepresentations regarding the development, the Zoning Officer shall revoke the zoning permit and proceed with whatever legal action is necessary to correct the violation (see §27-160, "Enforcement").
8. **Permits Issued in Error.** Any zoning permits issued in error shall be null and void.
9. **Appealing the Zoning Officer's Determination.** The applicant may appeal the denial of a zoning permit and aggrieved persons or neighbors may appeal the issu-

ance of a zoning permit, as specified in §27-122, "Appealing the Determination of a Municipal Officer."

(Ord. 984, 6/14/1999, Art. I, §148)

§27-116. Occupancy Permits.

1. When an Occupancy Permit is Needed. Before any property owner may use or occupy his or her new and/or vacant lot; use or occupy his or her new, reconstructed, moved, and/or vacant nonsign structure or change the use of his or her nonsign structure or lot, an occupancy permit must be obtained (unless this Chapter specifically states otherwise). Part 6 explains when occupancy permits are needed for signs.
2. Procedure for Obtaining an Occupancy Permit. After the completion of all development activities, but before the involved structure and/or lot is used or occupied, the applicant shall notify the Zoning Officer and pay the required fees set by Borough Council.² The Zoning Officer shall examine the involved structure and/or lot within 10 days of this notification and payment. If the structure, lot and the involved use comply with the provisions of this Chapter, other applicable ordinances and laws and any plans approved for a zoning permit, then the Zoning Officer shall issue an occupancy permit. Otherwise, he or she shall not. If the Zoning Officer does not act within the required time period, then the permit shall be deemed to be issued.
3. Temporary Occupancy Permits. The Zoning Officer may issue a temporary occupancy permit which allows the use, partial use or occupancy of the involved structure or lot during development activities. Such a permit shall be valid for no longer than 3 months.
4. Inspections. In order to make the determinations required by subsection (2) of this Section, the Zoning Officer shall have the authority to enter any building, structure, premises, property or development in the Borough at any reasonable hour upon presentation of proper credentials.
5. Revocation of Permits. If the Zoning Officer discovers that the applicant has made any false statements or misrepresentations regarding the development, the Zoning Officer shall revoke the occupancy permit and proceed with whatever legal action is necessary to correct the violation (see §27-119, Enforcement).
6. Permits Issued in Error. Any occupancy permits issued in error shall be null and void.
7. Appealing the Zoning Officer's Determination. The applicant may appeal the denial of an occupancy permit and aggrieved persons or neighbors may appeal the

² Editor's Note: The current fee resolution is on file in the office of the Borough Secretary.

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issuance of an occupancy permit, as specified in §27-169, Appealing the Determination of a Borough Officer.

8. Duration of Occupancy Permits. Non-temporary occupancy permits shall be valid for the life span of the involved development, except if that development is either a temporary sign on private property (in which case the permit shall only be valid for 30 days) or a temporary sign on a public right-of-way (in which case the permit shall only be valid for 60 days).

(Ord. 984, 6/14/1999, Art. I, §151)

§27-117. Nonconformities.

1. Purpose, Organization and Applicability of this Section. A nonconformity is defined for the purposes of this Chapter as a land use, lot or structure that was legally established before the effective date of this Chapter's enactment (see §27-106, "Effective Date of This Chapter") and does not conform to the substantive regulations of this Chapter. Because nonconformities were legally established and because their owners could not have known what the regulations of this Chapter were going to be in advance, the owners have a legal and ethical right to continue their nonconformities. However, this Chapter would be unable to fulfill most of its purposes from §27-104 do much to protect the people, homes and businesses of Philipsburg from facilities that do not follow this Chapter or have much of an effect on the Borough over the next half-century if it could not eliminate nonconformities. Thus, a compromise must be provided that allows the owners of nonconforming uses, structures or lots to use and maintain these investments while this Chapter gradually eliminates them. The purpose of this Section is to provide such a compromise. Note that this Section does not regulate nonconforming signs, Part 6 does. With this sole exception, subsection (2) provides some rules concerning nonconforming structures, land uses and lots. Subsection(3) only addresses nonconforming structures and subsection (4) only addresses nonconforming land uses.
2. General Rules Concerning Nonconformities. The following rules apply to or concern all nonconforming structures, land uses and lots:
 - A. The Zoning Officer shall keep and maintain a list of all nonconformities that exist in the Borough on the effective date of this Chapter's enactment (see §27-106, "Effective Date of This Chapter") and on the effective dates of any amendments to either this Chapter or its map.
 - B. The owner of a nonconformity may obtain a "certificate of nonconformity" from the Borough's Zoning Officer. This certificate shall state that the owner's right to continue his or her nonconformity is guaranteed.
 - C. Aggrieved parties and the involved landowner may both appeal the Zoning Officer's determination of whether or not a property is nonconforming ac-

ording to the rules of §27-122, "Appealing the Determination of a Borough Officer."

- D. Any structure, land use, or lot that was illegally established under a previous zoning ordinance or land use regulation shall remain illegal under this Chapter, even if it conforms to the regulations of this Chapter. No illegal structure, land use or lot shall become a nonconformity under this Chapter.
 - E. Any structure, land use, or lot that becomes a nonconformity due to an amendment made after the effective date of this Chapter's enactment shall be subject to the regulations of this Section.
3. Nonconforming Structures or Buildings. The following rules apply to all nonconforming structures:
- A. A nonconforming structure or building may be altered, enlarged, repaired or reconstructed provided that:
 - (1) Its nonconformity or nonconformities are not increased.
 - (2) It will comply with the other applicable requirements of this Chapter.
 - (3) All necessary zoning and occupancy permits are obtained (see §§27-115 and 27-116).
 - (4) It follows any applicable building codes.
 - (5) It has not been abandoned, which shall be defined as having its windows or doors boarded up, having its maintenance discontinued and/or being unused for a total of 12 months within an 18 month period
 - B. A nonconforming structure or building may be reconstructed after it is partially destroyed by a natural or artificial disaster and any nonconforming use within it may be continued; provided, that:
 - (1) The regulations under subsection (3)(A) above are followed.
 - (2) A zoning permit has been acquired for its reconstruction within 1 year of the involved disaster.
 - (3) The damage to it does not exceed 99% of its fair market value.
 - C. A conforming use in a nonconforming structure may expand within that structure.
4. Nonconforming Uses. The following rules apply to all nonconforming uses:

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- A. To allow for natural economic growth, a nonconforming use may expand in terms of gross floor area or lot coverage; provided, that the use's owner can prove to the Borough's Zoning Hearing Board, by way of the procedure outlined in §27-702, "Zoning Hearing Board"³, that:
- (1) No aspect of the structure or structures that contain or will contain the use shall become either nonconforming or more nonconforming than it was before.
 - (2) The use does not expand on to property that was acquired after the use became nonconforming.
 - (3) The expansion does not eliminate off-street parking spaces or loading berths required by this Chapter.
 - (4) Such an expansion is necessary to accommodate a normal increase in business.⁴
- B. If a nonconforming use is changed to a conforming use, it shall not be subsequently changed back to a nonconforming use.
- C. A nonconforming use may be changed to another nonconforming use if the use's owner can prove to the Borough's Zoning Hearing Board by way of the procedure outlined in §27-702, "Zoning Hearing Board"⁵, that the proposed use is the same type of use as the original use or is a use that conforms more closely to the purpose and regulations⁶ of the involved zoning district than the original use. In making a judgment on similar uses, the Zoning Hearing Board shall be guided by the use classification system in the Standard Industrial Classification Manual, Federal Office of Management and Budget, current edition.
- D. A nonconforming use that has been abandoned shall not be returned to a nonconforming use of any kind. A nonconforming use shall be abandoned when one or more of the following conditions have been met:
- (1) The owner's intent to discontinue the use is apparent through such actions as the boarding up of windows, the boarding up of entrances or the discontinuation of maintenance.

³ Note: The Zoning Hearing Board's decision on this matter may be appealed to the Court of Common Pleas of the judicial district in which the involved property is located.

⁴ Note: See *Heyman v. Zoning Hearing Board of Abington Township*, 601.1 2d 414 (Ps. Commonwealth 1991).

⁵ Note: The Zoning Hearing Boards decision on this matter may be appealed to the Court of Common Pleas of the judicial district in which the involved property is located.

⁶ Note: Setbacks, height regulations, lot requirements and off-street parking and loading requirements shall be considered here, along with any of this Chapter's other regulations that the Zoning Hearing Board decides are relevant.

- (2) The use has been discontinued for a total of 12 months within an 18 month period.
 - (3) The use has been replaced by a conforming use.
 - (4) The use has been changed to another nonconforming use as required by subsection (C) above.
- E. A special exception or conditional use shall not be considered a nonconforming use, but rather a lawful conforming use.
- F. Any use that exists at the effective date of this Chapter's enactment (see §27-106, "Effective Date of This Chapter"), is allowed in its zoning district only as a special exception or conditional use and has not been recognized as a special exception or conditional use as required by Part 3, "Special Exceptions and Conditional Uses," shall be a nonconforming use.

(Ord. 984, 6/14/1999, Art. I, §154)

§27-118. Variances.

1. Purpose of Variances. The regulations of this Chapter apply to and are designed to address the conditions of either the entire Borough or an entire zoning district. Thus, they are not precisely geared to any one property. The regulations were designed in this manner to avoid unequal, unfair or arbitrary treatment of different property owners. Because these generalized regulations were not designed with any one property in mind; however, it is possible, in a few situations, that they could prevent any use of a property. The function of a variance is to provide relief from such a situation. A variance gives a property owner or tenant permission to do something that violates a provision of this Chapter in order to keep him or her from suffering an "unnecessary hardship" due to that provision. However, variances should not be given freely. If every property owner or tenant who suffered any kind of a hardship due to the regulations of this Chapter was granted a variance, then this Chapter would be completely unable to fulfill its purposes and would be nothing but a waste of time and money. Thus, subsection (4) below specifies conditions that the Zoning Hearing Board is to use to distinguish genuine unnecessary hardships from common inconveniences.
2. Who May Apply for a Variance. Any landowner or tenant who has the permission his or her landowner may apply for a variance.
3. Procedure for Obtaining a Variance. A party listed in subsection (2) above who wishes to obtain a variance must submit a written application to the Zoning Officer on a form supplied by the Borough. This application shall specifically cite the provisions of this Chapter from which the applicant is seeking relief. After determining that the application is complete, the Zoning Officer shall forward the application to the members of the Zoning Hearing Board. At the involved hearing,

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the Zoning Hearing Board shall follow the procedure specified in §27-702, "Zoning Hearing Board." If the Zoning Hearing Board decides to grant a variance, it may attach any reasonable conditions that it feels are necessary to forward the purposes of this Chapter. Appeals to the Board's decision may be made to the Centre County Court of Common Pleas.

4. Conditions that the Zoning Hearing Board is to Use. The Zoning Hearing Board may only grant a variance when it makes all of the following five findings:
 - A. There are unique and peculiar physical conditions present on the involved property, such as the size, shape or topography of the involved lot, that were not created by the provisions of this Chapter.
 - B. Because of these conditions, there is no possibility that the involved property can be developed in strict conformity with the provisions of this Chapter that if these provisions were rigidly implemented, the property would be virtually unusable and without any economic value.
 - C. This unnecessary hardship was not created by the applicant property owner/tenant or any of his or her predecessors.
 - D. The variance requested, if granted will not alter the essential character of the involved neighborhood or zoning district, it will not substantially or permanently impair the appropriate use or development of any adjacent properties and will not be detrimental to the public welfare.
 - E. The variance, if granted, will be the smallest possible modification of the involved regulation that will provide relief from this regulation.

(Ord. 984, 6/14/1999, Art. I, §157)

§27-119. Enforcement.

1. Purpose, Organization, and Applicability of this Section. The purpose of this Section is to prescribe procedures that will effectively enforce the provisions of this Chapter while protecting the legal rights of property owners and adhering to the rules for zoning ordinance enforcement that are established in the Pennsylvania Municipalities Planning Code (Act of 1968, P.L. 805, No. 247, as reenacted and amended). These procedures apply to situations in which a person, partnership or corporation erects, reconstructs, alters, maintains, establishes or uses a structure, sign, building, lot or land use in a manner that violates one or more of the provisions of this Chapter. In other words, these procedures apply to situations involving an illegal structure, sign, lot or use. They do not apply to situations involving a structure, sign, lot, or use that is a nonconformity (as defined in §27-117, "Non-conformities") or that has a variance (as defined in §27-118, "Variances"). In Pennsylvania, zoning ordinances are enforced through legal proceedings. These proceedings may be instituted by the following groups of people.

- A. The Borough Council.
- B. An officer of the Borough (e.g., the Zoning Officer) with the approval of Borough Council
- C. An aggrieved party who would be substantially affected by the alleged violation

The procedure that is to be used by the first two of these groups is discussed under subsection (2) below. The procedure that is to be used by aggrieved parties is discussed under letter subsection (3) below.

- 2. Borough Enforcement Procedure. If it appears to the Borough that a violation of this Chapter has occurred, then enforcement proceedings shall be instituted as described below:
 - A. Before any other enforcement actions begin, the Zoning Officer shall send an enforcement notice to the following parties:
 - (1) The owner of record of the parcel on which the violation has occurred.
 - (2) Any person who has filed a written request to receive enforcement notices regarding the involved parcel.
 - (3) Any person that the owner requested, in writing, to receive a copy.
 - B. Each enforcement notice required by this Section shall contain:
 - (1) The name of the involved landowner and any other persons against whom the Borough intends to take action.
 - (2) The location of the property in violation.
 - (3) A description of the specific violation involved.
 - (4) Citations and descriptions of the specific provisions of this Chapter which have been violated.
 - (5) The date before which the steps for compliance must be commenced, as well as the date before which these steps must be completed.
 - (6) A statement noting that the recipient has the right to appeal the enforcement notice to the Zoning Hearing Board within 30 days and that failure to comply with the notice within this time period, unless it is extended by appeals, constitutes a violation of this Chapter, with possible sanctions clearly described.

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- C. In a Zoning Hearing Board hearing where an enforcement notice is appealed, the Borough shall present its evidence against the appellant first.
 - D. Any filing fees paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to that party by the Borough if the Board or any court in a subsequent appeal rules in the appellant's favor.
 - E. After all necessary enforcement notices are sent as required above, the Borough Council and officers of the Borough acting with Council's approval may institute civil proceedings with the appropriate district justice to enforce the provisions of this Chapter and to prevent, restrain, correct or abate an illegal structure, sign, lot or land use. Any person, partnership or corporation who has violated or permitted the violation of this Chapter shall, upon being found liable in a civil enforcement proceeding, pay a judgment of not more than \$500 plus all court costs, including all reasonable attorney fees incurred by the Borough. No penalties shall be imposed on the liable party until the date of the determination of a violation by the involved district justice. If the liable party neither pays nor appeals the judgment in a timely manner, the Borough shall enforce the judgment pursuant to the applicable rules of civil procedure.
 - F. Each day that a violation continues shall constitute a separate violation, unless the district justice finds that there was a good faith basis for the liable party to have believed that there was no such violation. In this situation, there shall be only one violation until the fifth day following the date of the determination of a violation by the district justice, after which each day that the violation continues shall constitute a separate violation.
 - G. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
3. Aggrieved Party Enforcement Procedure. Aggrieved parties may file an equity action in court (i.e., not with the district justice) to enforce the provisions of this Chapter and prevent, restrain, correct or abate an illegal structure, sign, lot or land use. Such parties may file such an action only after serving notice to the Borough of Philipsburg at least 30 days in advance. This notice is to allow the Borough time to investigate the situation and to issue a enforcement notice, if warranted.

(Ord. 984, 6/14/1999, Art. I, §160)

§27-120. Procedural Challenges.

- 1. Purpose and Applicability of this Section. The Pennsylvania Municipalities Planning Code (Act of 1968, P.L. 805, No. 247, as reenacted and amended) specifies procedures that are to be used to adopt and amend this Chapter. These proce-

dures are designed to offer ample opportunities for public participation and to make the Chapter as fair as possible. It is feasible; however, that this Chapter or any one of its amendments was not adopted according to these procedures and thus, is procedurally flawed. The purpose of this Section is to give landowners and other parties aggrieved by such a flaw, as well as officers and agencies of the Borough itself, a process through which they may challenge the procedural validity of the Chapter or amendment. This process may be used to guarantee adequate public participation and fairness in the adoption process and to overturn any unfair ordinances or amendments.

2. Where Procedural Challenges may be Heard. The parties named in subsection (1) above may file a procedural challenge with either the Centre County Court of Common Pleas or the Zoning Hearing Board. However, challenges made to the initial zoning ordinance before the Zoning Hearing Board is established may only be taken to court. Procedural challenges taken to the Zoning Hearing Board may have to follow the rules established by §27-123, "Time Limitations" and the Board shall hear all such challenges according to the procedure given in §27-702, "Zoning Hearing Board."⁷
3. Time Limitations. All such challenges shall be raised by an appeal taken within 30 days of the effective date of enactment for the involved ordinance or amendment.

(Ord. 984, 6/14/1999, Art. I, §163)

§27-121. Substantive Challenges.

1. Purpose and Applicability of this Section. The Constitution of the United States, the Constitution of the Commonwealth of Pennsylvania and various Federal and State laws significantly limit what this Chapter may regulate, so that the rights and property of Philipsburg's citizens and neighbors are protected. It is feasible; however, that one or more of this Chapter's provisions violate these laws and are thus, substantively flawed. The purpose of this Section is to give landowners and other parties aggrieved by such a flaw, as well as officers and agencies of the Borough itself, a process through which they may challenge the substantive validity of the involved provision. This process may be used to ensure that this Chapter respects the laws of the United States and the Commonwealth, as well as to overturn any illegal or unconstitutional provisions.
2. Landowner Curative Amendments and Substantive Validity Challenges. A party named under subsection (1) above who wishes to challenge the substantive validity of this Chapter has the following two choices:
 - A. Applying to the Borough Council for a "landowner curative amendment."

⁷ Note: The Zoning Hearing Board's decision may be appealed to the relevant Court of Common Pleas.

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- B. Requesting that the Zoning Hearing Board hear a substantive validity challenge.

A person or party who wishes to challenge the substantive validity of this Chapter because he or she is aggrieved by a use or development permitted on another person's land must first select the second choice. However, all of the other named parties are free to choose from these options.

Landowner curative amendments and substantive validity challenges are essentially the same type of appeal, with some minor procedural differences. A validity challenge must be in writing and contain reasons for the challenge, but unlike the curative amendment, does not have to contain materials describing the proposed development or amendments.

When a landowner curative amendment proposal is approved by Borough Council, a substantive validity challenge is sustained by the Zoning Hearing Board or the relevant court sustains either of these actions in a final appeal, the involved developer may file a subdivision application within 2 years and apply for a zoning permit within 1 year without losing the rights granted to him in the relevant validity challenge to a subsequent change or amendment in any land use ordinance.

- 3. Landowner Curative Amendments. Applications for a landowner curative amendment shall be governed by the rules below:
 - A. All such applications shall be made to the Zoning Officer, who shall forward them to the Borough Council. These applications may be subject to the time limitations of §27-123 172, "Time Limitations."
 - B. All such applications shall be made in writing and shall contain the following:
 - (1) The reasons why the Chapter should be amended as proposed.
 - (2) Plans and explanatory materials describing the use or development proposed by the landowner in lieu of the use or development allowed by this Chapter (these plans must be of sufficient quality and detail to allow an evaluation of this Chapter in light of the proposed use or development).
 - (3) The amendment or amendments that the landowner proposes to cure the alleged defects in this Chapter.
 - C. The Borough Council shall hear and decide on applications for landowner curative amendments as required in §27-703, "Borough Council."
 - D. Appeals to the Borough Council's decision shall be taken to the Centre County Court of Common Pleas.

3. Substantive Validity Challenges Before the Zoning Hearing Board. Requests for a hearing before the Zoning Hearing Board on a substantive validity challenge to this Chapter shall be governed by the rules below:
 - A. All such requests shall be made to the Zoning Officer, who shall forward them to the Zoning Hearing Board. These applications may be subject to the time limitations of §27-123, "Time Limitations."
 - B. All such requests shall be made in writing and shall contain the reasons for the involved challenge.
 - C. The Zoning Hearing Board shall decide whether or not to hear such a request and whether or not to grant such a request according to the requirements of §27-702, "Zoning Hearing Board."
 - D. Appeals to the Zoning Hearing Board's decision shall be taken to the Centre County Court of Common Pleas.

(Ord. 984, 6/14/1999, Art. I, §166)

§27-122. Appealing the Determination of a Borough Officer.

1. Any landowner or party who is affected by a zoning-related determination of a Borough officer (e.g., the Zoning Officer) may appeal this determination to the Zoning Hearing Board. Such appeals may concern (but are not limited to):
 - A. The granting or denial of any permit, including a failure to act on the application
 - B. The issuance of any enforcement notice by way of §27-119, "Enforcement."
 - C. The registration or refusal to register any nonconforming use, structure or lot.
2. Time limitations may be placed on such appeals by §27-123, "Time Limitations." The Zoning Hearing Board shall hear all such appeals according to the provisions of §27-702, "Zoning Hearing Board."
3. Any landowner or party who is affected by a zoning-related determination of a Borough officer may also appeal this determination to the Centre County Court of Common Pleas.

(Ord. 984, 6/14/1999, Art. I, §169)

§27-123. Time Limitations.

1. The Purpose, Organization, and Applicability of this Section. If the period of time in which a landowner could file an appeal concerning a decision that was adverse to his or her proposed use or development was unlimited, then the difficulty and costs of enforcing this Chapter could become prohibitively high. Likewise, if the period of time in which a party who opposed this proposed use or development could file an appeal concerning a decision that approved the use or development was unlimited, then the costs of development could become prohibitively high. The purpose of this Section is to avoid both of these situations by limiting the amount of time that both landowners and aggrieved parties have to file for a hearing before the Zoning Hearing Board or (where applicable) the Borough Council when a proposed use or development is involved. The rules of this Section, which are listed under subsection (2) below, only apply to:
 - A. A landowner who wishes to appeal a decision by the Zoning Officer not to grant a zoning permit for his or her proposed construction, reconstruction, alteration or other physical development (see §27-115, "Zoning Permits").
 - B. An aggrieved party who wishes to appeal a decision by the Zoning Officer to grant a zoning permit to another party's proposed construction, reconstruction, alteration or other physical development (see §27-115, "Zoning Permits").
 - C. A landowner who wishes to appeal a decision by the Zoning Officer not to grant an occupancy permit for his or her proposed land use (see §27-116, "Occupancy Permits").
 - D. An aggrieved party who wishes to appeal a decision by the Zoning Officer to grant an occupancy permit to another party's proposed land use (see §27-116, "Occupancy Permits").
 - E. A landowner or an aggrieved party who wishes to appeal a decision by the Zoning Officer concerning the nonconforming status of a structure, land use or lot (see §27-117, "Nonconformities").
 - F. A landowner who wishes to contest the Zoning Officer's issuance of an enforcement notice for his property (see §27-119, "Enforcement").
 - G. A landowner who wishes to reverse or limit a decision that was made by the Zoning Officer according to the provisions of this Chapter and opposes the landowner's proposed use or development,⁸ by challenging the procedural or substantive validity of this Chapter before either the Zoning Hearing Board or (where applicable) Borough Council (see §27-120, "Procedural Challenges" or §27-121, "Substantive Challenges").

⁸ Note: Such a decision might involve the refusal of a zoning permit, an occupancy permit or grant of nonconformity status.

- H. An aggrieved party who wishes to reverse or limit a decision that was made by the Zoning Officer according to the provisions of this Chapter and approves a proposed use or development on another party's land,⁹ by challenging the procedural or substantive validity of this Chapter before either the Zoning Hearing Board or (where applicable) Borough Council (see §27-120, "Procedural Challenges" or §27-121, "Substantive Challenges").

2. Time Limitation Rules.

- A. If the reason behind a hearing before either the Zoning Hearing Board or Borough Council is to reverse or limit the Zoning Officer's approval⁸ of a third party's proposed use or development in any manner,¹⁰ then the request for that hearing must be filed no later than 30 days after the involved approval was given. If the person filing such a request has succeeded to his or her interest after the involved approval was given, then he or she shall be bound by the knowledge of his predecessor in interest.
- B. All appeals from decisions¹¹ that are adverse to the involved landowner shall be filed with the involved body within 30 days of the notice of this decision.

(Ord. 984, 6/14/1999, Art. I, §172)

§27-124. Preliminary Opinions.

- 1. Purpose of Preliminary Opinions. According to §27-123, "Time Limitations" any aggrieved party who wishes to stop or limit a proposed construction, reconstruction, alteration or other physical development by challenging either the procedural or substantive validity of this Chapter (see §27-120, "Procedural Challenges" and §27-121, "Substantive Challenges") may only do so within 30 days of the development's receiving a zoning permit (see §27-115, "Zoning Permits"). Likewise, any aggrieved party who wishes to stop or limit a proposed land use by challenging either the procedural or substantive validity of this Chapter may only do so within 30 days of the use's receiving an occupancy permit (see §27-116, "Occupancy Permits"). "Preliminary opinions" are a tool that the landowner who is proposing the involved development or use may employ to shorten this 30 day period.

⁹ Note: An "approval" might be the issuance of a zoning permit, the issuance of an occupancy permit or the grant of nonconformity status.

¹⁰ Note: This includes procedural or substantive validity challenges. In these cases, the 30 day period shall begin when the proposed construction, reconstruction, alteration or other physical development receives its zoning permit or when the proposed use receives its occupancy permit.

¹¹ Note: Such a "decision" might be the issuance of an enforcement notice or the denial of a zoning permit, occupancy permit or nonconformity status.

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2. Procedure for Obtaining a Preliminary Opinion. Preliminary opinions may be obtained by following this procedure:
 - A. The involved landowner shall submit plans and other materials describing his or her proposed use or development to the Zoning Officer for a preliminary opinion on their compliance with the Chapters and maps that are applicable at the time. These plans and materials must be of sufficient detail and quality to allow the Zoning Officer to make a determination as to whether or not the proposed use or development is in compliance.
 - B. If the Zoning Officer's preliminary opinion is that the proposed use or development complies with all applicable ordinances and maps, then notice of this shall be published once a week for 2 consecutive weeks in a newspaper of general circulation within Philipsburg. This notice shall include a general description of the proposed use or development, its location and the places and times where the plans and other materials may be examined by the general public.
 - C. The Zoning Officer's decision regarding a preliminary opinion may be appealed to the Zoning Hearing Board (see §27-702, "Zoning Hearing Board") or the Centre County Court of Common Pleas.
3. How an Approved Preliminary Opinion Affects the Time Limits of §27-123. If the Zoning Officer approves the proposed use or development as specified under subsection (2) above, then the 30 day period during which an aggrieved party may stop or limit the proposed use or development by challenging the procedural or substantive validity of this Chapter (see §27-120, "Procedural Challenges" and §27-121, "Substantive Challenges") begins on the date that the second notice is published instead of the date on which the proposed use or development receives the applicable permit.

(Ord. 984, 6/14/1999, Art. I, §175)

§27-125. Appeals to Court.

The final adjudication of any Borough officer or body is appealable to the Centre County Court of Common Pleas. Nothing in this Chapter shall be construed to deny an appellant the right to bypass either the Zoning Hearing Board or Borough Council and proceed directly to court where appropriate. Furthermore, nothing in this Chapter shall be construed to deny the right to bypass the procedures for challenging the procedural or substantive validity of this Chapter that are given in this Part.

(Ord. 984, 6/14/1999, Art. I, §178)

§27-126. Amending This Chapter.

This Chapter may be amended through a landowner curative amendment, a municipal curative amendment or a common amendment. The purposes behind and procedures for landowner curative amendments are given in §27-121, "Substantive Challenges." Municipal curative amendments are only used by Borough Council, are used to cure substantial validity problems within this Chapter, and are addressed in §27-703, "Borough Council." Common amendments are also addressed in §27-703, "Borough Council."

(Ord. 984, 6/14/1999, Art. I, §181)

PART 2**ZONING DISTRICT PROVISIONS****§27-201. Purposes, Organization and Applicability of This Part.**

1. Purposes and Organization. The purposes served by this Chapter's regulations are given in Part 1, §27-104, "General Purposes of This Chapter" and are taken from the "Comprehensive Goals and Objectives" Section of the 1998 Philipsburg Comprehensive Plan. In order to fulfill these purposes to the fullest extent possible, recognize the differing present-day statuses and goals of Philipsburg's various neighborhoods and eliminate unnecessary constraints on the Borough's property owners, most of this Chapter's regulations should not be applied uniformly across the Borough. Instead, they should be applied only to the areas of the Borough where they are appropriate and will clearly fulfill the purposes of this Chapter. To this end, §27-202 of this Part divides the Borough into 8 "zoning districts," each of which is composed of neighborhoods with similar present-day status and goals and faces a set of regulations that is different than the set faced by every other zoning district. Section 27-203 establishes the "Official Zoning Map of the Borough of Philipsburg," which shows the physical location of these districts. Each Section of this Part from §§27-204 to 27-211 addresses one of these 8 zoning districts: providing regulations that apply to that district, a reference to §27-212 (which lists the land uses allowed, off-street parking spaces required and off-street loading berths required in each zoning district) and a reference to §27-213 (which lists the setbacks, height regulations and lot requirements of each district). In dealing with some subjects, §§27-212 and 27-213 also reference various parts of the rest of this Chapter.
2. Applicability: Sections 27-202 and 27-203 of this Part establish Philipsburg's 8 zoning districts and thus, apply to every property in the Borough. However, §§27-204 through 27-211 each address only one zoning district. Thus, the only one of these sections that applies to a given property is the section that addresses that property's zoning district. Because §§27-212 and 27-213 are referred to by each section from §§27-204 to 27-211, they apply to all zoning districts and thus to all properties within the Borough. However, §§27-212 and 27-213 are arranged in a table form, so that only one column within each table applies to any given zoning district and the properties therein. Thus, the reader should read §§27-202, §27-203 the Section between §§27-204 and 27-211 that applies to the zoning district of the property in which he or she is interested, §27-212, §27-213 and any parts of the rest of this Chapter that are referenced in this Part and relevant to the reader's concerns.

(Ord. 984, 6/14/1999, Art. II, §200)

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§27-202. Establishment of Zoning Districts.

To properly carry out the purposes of this Chapter as listed in Part 1, §27-104, "General Purposes of This Chapter," the Borough of Philipsburg is hereby divided into 8 zoning districts. These districts shall be designated as follows:

The Zoning Districts Full Name	The Zoning District's Abbreviated Name
Single Household Suburban Residential District	R1A
Single Household Urban Residential District	R1B
Multi-Household Residential District	R2
Special Residential District	R3
Downtown Commercial District	C1
Highway Commercial District	C2
Industrial District	I
Recreation/Conservation District	RC

(Ord. 984, 6/14/1999, Art. II, §205)

§27-203. Establishment of the Official Zoning Map.

1. Official Zoning Map of the Borough of Philipsburg. The locations and boundaries of the districts listed in §27-202 shall be displayed on the "Official Zoning Map of the Borough of Philipsburg." This map shall be certified as the true zoning district map adopted by the Borough of Philipsburg by the signature of the Council President attested to by the Borough Secretary the Seal of the Borough underneath the words "This is to certify that this is the Official Zoning Map referred to in the Philipsburg Borough Zoning Ordinance." The Official Zoning Map shall be kept on display at the Borough Building, shall be maintained by the Borough's Zoning Officer and shall serve as the ultimate authority on the location of zoning district boundaries overruling all copies made of it. The "Official Zoning Map of the Borough of Philipsburg" and all information shown thereon are hereby made a part of this Part and this Chapter.
2. Zoning Map in the Appendix. For informational purposes only, a copy of the Official Zoning Map has been attached to this Chapter as an Appendix. However, the Official Zoning Map shall prevail in any dispute between a copy or an alleged copy of the Official Map and the Official Map itself.
3. Amending the Official Zoning Map. Amendments to the Official Zoning Map of the Borough of Philipsburg may be pursued as either a simple amendment to this Chapter, a landowner curative amendment or a municipal curative amendment (see Part 7, §27-703, "Borough Council," for the proper procedures for each of

these). Any changes made to the Official Zoning Map by any other means whatsoever shall be considered a violation of this Chapter punishable as provided under Part 1, §27-119, "Enforcement." If an amendment is made to the zoning districts, the Official Zoning Map shall be changed accordingly in a prompt manner. With these changes, an entry shall be made on the map which states "On (the appropriate date), by official action of the Borough Council, the following changes were made to the Official Zoning Map." Brief descriptions of these changes shall be made beneath this statement and the entire entry shall be signed by the Council President and attested to by the Borough Secretary.¹²

4. Rules for Interpreting the Official Zoning Map. The zoning district boundaries established on the Official Zoning Map of the Borough of Philipsburg shall be interpreted according to the following rules.
 - A. Boundaries indicated as approximately following natural features or the centerlines of streets, highways or alleys shall be construed to follow such center lines.
 - B. Boundaries indicated as approximately following the boundary line of a recorded lot or separate parcel of land shall be construed as following said line of recorded lot or parcel of land.
 - C. Boundaries indicated as approximately following Borough boundaries shall be construed to follow said Borough boundaries.
 - D. Boundaries indicated by measured distances on the zoning map shall be determined by such dimensions. Distances not specifically indicated on the zoning map shall be determined by the scale of the map.

(Ord. 984, 6/14/1999, Art. II, §210)

§27-204. R1A Single Household Suburban Residential District.

1. District Purposes. The R1A District was drawn to include already developed low-density residential areas that are predominantly composed of single household detached homes and open areas where similar development should occur. This district's regulations are designed to protect the district's established single household homes, promote similar development in the vacant parts of the district, retain the district's low density, require proper design standards for future development and enhance the unique character of this district, its structures and its quality of life.
2. R1A District Regulations. Each land use, lot, and structure in this district shall follow the regulations below.

¹² Editor's Note: A listing of the Zoning Map amendments is included in Part 9 of this Chapter.

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- A. Within this district, a lot may be used or occupied for the permitted principal uses, permitted accessory uses, temporary uses, special exception uses and conditional uses that are given for this district in §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
- B. Each land use in this district shall provide off-street parking spaces as required by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
- C. Each land use in this district shall provide off-street loading berths as required by §27-121, "Land Uses, Off-Street Parking and Off-Street Loading."
- D. Unless this Chapter specifically states otherwise, all buildings and lots in this district shall meet the setback requirements, height limitations and lot restrictions that are specified for this district in §27-213, "Setbacks, Height Regulations and Lot Requirements."
- E. Within this district, no accessory structure shall contain a dwelling.
- F. Supplies, parts and/or equipment shall not be stored overnight outside of a building in this district.
- G. Vehicles which meet one or more of the following descriptions shall not be parked, placed, stored, restored, or repaired in any yard or driveway or on any public street or right-of-way in this district.
 - (1) A vehicle from which the wheels and/or engine have been removed.
 - (2) A vehicle which does not have a current motor vehicle license and inspection sticker.
- H. The following vehicle types shall not be parked overnight on a public right-of-way in this district.
 - (1) Any truck or van that either exceeds 11,000 pounds of gross weight or is designated as a Class 5 Vehicle or above by the Pennsylvania Motor Vehicle Code.
 - (2) Construction vehicles.
 - (3) Recreational vehicles.
 - (4) Trailers of any kind, including boat trailers or camper trailers.
 - (5) Agricultural equipment or farm implements.
- I. Within this district, all residences shall be secured or tied down to a foundation that is adequate to prevent the home from overturning under all but the most severe circumstances. Where the residence is supported by a non-

continuous foundation (e.g., posts, wheels, pillars), an enclosure of material and design compatible to the residence shall be installed to conceal the open space above grade. Such enclosure shall provide sufficient ventilation to inhibit decay and deterioration of the residence's foundation, but shall not contain open areas large enough to permit the entry of a ball with a diameter of 2 inches.

- J. Within this district, a building that contains a dwelling shall be the only principal permitted use on the involved lot.

(Ord. 984, 6/14/1994, Art. II, §215)

§27-205. R1B Single Household Urban Residential District.

1. District Purposes. The R1B District was drawn to include two medium-density, pedestrian-friendly neighborhoods that are largely composed of single-household detached homes and small, scattered commercial establishments. Although these neighborhoods contain a variety of activities, they are predominantly single-household residential and should stay that way. Hence, only single-household homes and family oriented amenities are allowed in this district as permitted principal uses. Small commercial and professional uses, as well as multi-household residential buildings, are allowed only as special exceptions subject to conditions specified in Part 3 that are to ensure their compatibility by limiting their size and character. The remainder of the R1B District's regulations are designed to retain the district's predominantly residential composition and flavor, to guarantee that the district's small commercial establishments are largely compatible with this residential flavor, to limit the district's density at its current levels, to ensure that future development is built to standards that are appropriate for this district and to enhance the unique character of this district, its structures and its quality of life.
2. R1B District Regulations. Each land use, lot, and structure in this district shall follow the regulations below:
 - A. Within this district, a lot may be used or occupied for the permitted principal uses, permitted accessory uses, temporary uses, special exception uses, and conditional uses that are given for this district in §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
 - B. Each land use in this district shall provide off-street parking spaces as required by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
 - C. Each land use in this district shall provide off-street loading berths as required by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
 - D. Unless this Chapter specifically states otherwise, all buildings and lots in this district shall meet the setback requirements, height limitations and lot

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restrictions that are specified for this district in §27-213, "Setbacks, Height Regulations and Lot Requirements."

- E. Within this district, no accessory structure shall contain a dwelling.
- F. The following vehicle types shall not be parked overnight on a public right-of-way in this district.
 - (1) Any truck or van that either exceeds 11,000 pounds of gross weight or is designated as a Class 5 vehicle or above by the Pennsylvania Motor Vehicle Code.
 - (2) Construction vehicles.
 - (3) Recreational vehicles.
 - (4) Trailers of any kind, including boat trailers or camper trailers.
 - (5) Agricultural equipment or farm implements.
- G. Within this district, all residences shall be secured or tied down to a foundation that is adequate to prevent the home from overturning under all but the most severe circumstances. Where the residence is supported by a non-continuous foundation (e.g., posts, wheels, pillars), an enclosure of material and design compatible to the residence shall be installed to conceal the open space above grade. Such enclosure shall provide sufficient ventilation to inhibit decay and deterioration of the residence's foundation, but shall not contain open areas large enough to permit the entry of a ball with a diameter of 2 inches.

(Ord. 984, 6/14/1999, Art. II, §220)

§27-206. R2 Multi-Household Residential District.

- 1. **District Purposes.** The R2 District was drawn to include a neighborhood of medium density residential buildings, many of which are large, older homes. Because many of the large, older homes are too large to be financially supported by a single household and multi-household buildings are an attractive housing option for many of the Borough's present and future residents, this district's regulations allow residential buildings to contain more than one dwelling as a special exception. The other provisions of this district are designed to protect the established homes in the district, to require proper design standards for future development and to enhance the unique character of this district, its structures and its quality of life.
- 2. **R2 District Regulations.** Each land use, lot and structure in this district shall follow the regulations below.

- A. Within this district, a lot may be used or occupied for the permitted principal uses, permitted accessory uses, temporary uses, special exception uses, and conditional uses that are given for this district in §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
- B. Each land use in this district shall provide off-street parking spaces as required by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
- C. Each land use in this district shall provide off-street loading berths as required by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
- D. Unless this Chapter specifically states otherwise, all buildings and lots in this district shall meet the setback requirements, height limitations and lot restrictions that are specified for this district in §27-213, "Setbacks, Height Regulations and Lot Requirements."
- E. Supplies, parts, and/or equipment shall not be stored overnight outside of a building in this district.
- F. Vehicles which meet one or more of the following descriptions shall not be parked, placed, stored, restored or repaired in any yard or driveway or on any public street or right-of-way in this district.
 - (1) A vehicle from which the wheels and/or engine have been removed.
 - (2) A vehicle which does not have a current motor vehicle license and inspection sticker.
- G. The following vehicle types shall not be parked overnight on a public right-of-way in this district.
 - (1) Any truck or van that either exceeds 11,000 pounds of gross weight or is designated as a Class 5 vehicle or above by the Pennsylvania Motor Vehicle Code.
 - (2) Construction vehicles.
 - (3) Recreational vehicles.
 - (4) Trailers of any kind, including boat trailers or camper trailers.
 - (5) Agricultural equipment or farm implements.
- H. Within this district, all residences shall be secured or tied down to a foundation that is adequate to prevent the home from overturning under all but the most severe circumstances. Where the residence is supported by a non-continuous foundation (e.g., posts, wheels, pillars), an enclosure of material and design compatible to the residence shall be installed to conceal the open

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space above grade. Such enclosure shall provide sufficient ventilation to inhibit decay and deterioration of the residence's foundation, but shall not contain open areas large enough to permit the entry of a ball with a diameter of 2 inches.

(Ord. 984, 6/14/1999, Art. II, §225)

§27-207. R3 Special Residential District.

1. District Purposes. The R3 District was drawn to include both already developed mobile home neighborhoods and open areas where similar development should occur. Mobile homes can be a relatively affordable and attractive housing option for many of the Borough's present and future residents. Thus, the provisions of this district are designed to promote mobile home parks as a supply of affordable housing, to allow compatible residential amenities to locate within this district, to protect these neighborhoods from development that is improperly designed or dangerous and to foster a family-oriented environment.
2. R3 District Regulations. Each land use, lot, and structure in this district shall follow the regulations below:
 - A. Within this district, a lot may be used or occupied for the permitted principal uses, permitted accessory uses, temporary uses, special exception uses and conditional uses that are given for this district in §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
 - B. Each land use in this district shall provide off-street parking spaces as required by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
 - C. Each land use in this district shall provide off-street loading berths as required by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
 - D. Unless this Chapter specifically states otherwise, all buildings and lots in this district shall meet the setback requirements, height limitations and lot restrictions that are specified for this district in §27-213, "Setbacks, Height Regulations, and Lot Requirements."
 - E. Within this district, no accessory structure shall contain a dwelling.
 - F. Supplies, parts, and/or equipment shall not be stored overnight outside of a building in this district.
 - G. Vehicles which meet one or more of the following descriptions shall not be parked, placed, stored, restored or repaired in any yard or driveway or on any public street or right-of-way in this district:
 - (1) A vehicle from which the wheels and/or engine have been removed.

- (2) A vehicle which does not have a current motor vehicle license and inspection sticker.
- H. The following vehicle types shall not be parked overnight on a public right-of-way in this district:
- (1) Any truck or van that either exceeds 11,000 pounds of gross weight or is designated as a Class 5 vehicle or above by the Pennsylvania Motor Vehicle Code.
 - (2) Construction vehicles.
 - (3) Recreational vehicles.
 - (4) Trailers of any kind, including boat trailers or camper trailers.
 - (5) Agricultural equipment or farm implements.
- I. Within this district, all residences shall be secured or tied down to a foundation that is adequate to prevent the home from overturning under all but the most severe circumstances. Where the residence is supported by a non-continuous foundation (e.g., posts, wheels, pillars), an enclosure of material and design compatible to the residence shall be installed to conceal the open space above grade. Such enclosure shall provide sufficient ventilation to inhibit decay and deterioration of the residence's foundation, but shall not contain open areas large enough to permit the entry of a ball with a diameter of 2 inches.

(Ord. 984, 6/14/1999, Art. II, §230)

§27-208. C1 Downtown Commercial District.

1. **District Purposes.** The C1 District was drawn around Philipsburg's current central business district (CBD). This district's provisions are designed to protect vital aspects of the commercial mix that is currently found in downtown Philipsburg; to permit and promote compatible commercial development, to allow upper-story dwellings in commercial buildings, to allow multi-family residential buildings subject to the approval of the Zoning Hearing Board, to permit future development to reach high densities, subject to constraints that will ensure that it is built to appropriate standards and to enhance the unique character of this district, its structures and its quality of life.
2. **C1 District Regulations.** Each land use, lot and structure in this district shall follow the regulations below:

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- A. Within this district, a lot may be used or occupied for the permitted principal uses, permitted accessory uses, temporary uses, special exception uses and conditional uses that are given for this district in §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
- B. Each land use in this district shall provide off-street parking spaces as required by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
- C. Each land use in this district shall provide off-street loading berths as required by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
- D. Unless this Chapter specifically states otherwise, all buildings and lots in this district shall meet the setback requirements, height limitations and lot restrictions that are specified for this district in §27-213, "Setbacks, Height Regulations and Lot Requirements."
- E. The following vehicle types shall not be parked overnight on a public right-of-way in this district.
 - (1) Any truck or van that either exceeds 11,000 pounds of gross weight or is designated as a Class 5 vehicle or above by the Pennsylvania Motor Vehicle Code.
 - (2) Construction vehicles.
 - (3) Recreational vehicles.
 - (4) Trailers of any kind, including boat trailers or camper trailers.
 - (5) Agricultural equipment or farm implements.
- F. All portions of a lot in this district which are not used for buildings or other accessory uses shall be attractively landscaped and maintained in good condition.
- G. All commercial land uses within this district which abut a residential zoning district shall buffer themselves against that district according to the provisions of Part 5, §27-505, "Required Buffers."

(Ord. 984, 6/14/1999, Art. II, §235)

§27-209. C2 Highway Commercial District.

1. **District Purposes.** The C2 District is oriented towards providing locations for highway-oriented commercial uses along major roadways but away from large residential neighborhoods and the high densities of downtown and establishing standards for the orderly development of these businesses. The C2 District's regu-

lations are designed to protect the appropriately designed highway-oriented businesses that are currently located in this district; to promote similar development; to encourage the provision of convenient automobile access, parking and loading; to make this district compatible with its neighboring districts and to enhance the quality of this district, its appearance and its commercial viability.

2. C2 District Regulations. Each land use, lot and structure in this district shall follow the regulations below:
 - A. Within this district, a lot may be used or occupied for the permitted principal uses, permitted accessory uses, temporary uses, special exception uses, and conditional uses that are given for this district in §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
 - B. Each land use in this district shall provide off-street parking spaces as required by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
3. Each land use in this district shall provide off-street loading berths as required by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
4. Unless this Chapter specifically states otherwise, all buildings and lots in this district shall meet the setback requirements, height limitations and lot restrictions that are specified for this district in §27-213, "Setbacks, Height Regulations and Lot Requirements."
5. The following vehicle types shall not be parked overnight on a public right-of-way in this district.
 - A. Any truck or van that either exceeds 11,000 pounds of gross weight or is designated as a Class 5 Vehicle or above by the Pennsylvania Motor Vehicle Code.
 - B. Construction vehicles.
 - C. Recreational vehicles.
 - D. Trailers of any kind, including boat trailers or camper trailers.
 - E. Agricultural equipment or farm implements.
6. All portions of a lot in this district which are not used for buildings or other accessory uses shall be attractively landscaped and maintained in good condition.
7. All commercial land uses within this district which abut a residential zoning district shall buffer themselves against that district according to the provisions of Part 5, §27-505, "Required Buffers."

(Ord. 984, 6/14/1999, Art. II, §240)

§27-210. I Industrial District.

1. District Purposes. The I District was drawn to include most of Philipsburg's present industries and areas to which they might expand; provided, that such expansion is in compliance with the Comprehensive Plan. The regulations of the I District are designed to allow a viable area for the location and growth of industrial and heavy commercial uses, to protect and promote the appropriate industries that are currently located in this district, to encourage clean industrial uses that will not become a burden on Philipsburg's environment, appearance or socioeconomic character, to foster an automobile-friendly environment and to enable the creation and retention of manufacturing enterprises and employment opportunities.
2. I District Regulations. Each land use, lot and structure in this district shall follow the regulations below:
 - A. Within this district, a lot may be used or occupied for the permitted principal uses, permitted accessory uses, temporary uses, special exception uses and conditional uses that are given for this district in §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
 - B. Each land use in this district shall provide off-street parking spaces as required by §212, "Land Uses, Off-Street Parking and Off-Street Loading."
 - C. Each land use in this district shall provide off-street loading berths as required by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
 - D. Unless this Chapter specifically states otherwise, all buildings and lots in this district shall meet the setback requirements, height limitations and lot restrictions that are specified for this district in, §213, "Setbacks, Height Regulations and Lot Requirements."
 - E. The following vehicle types shall not be parked overnight on a public right-of-way in this district.
 - (1) Any truck or van that either exceeds 11,000 pounds of gross weight or is designated as a Class 5 Vehicle or above by the Pennsylvania Motor Vehicle Code.
 - (2) Construction vehicles.
 - (3) Recreational vehicles.
 - (4) Trailers of any kind, including boat trailers or camper trailers.
 - (5) Agricultural equipment or farm implements.

- F. All commercial or industrial land uses within this district which abut a residential zoning district shall buffer themselves against that district according to the provisions of Part 5, §27-505, "Required Buffers."
- G. All salvage yards or junkyards in this district shall buffer themselves against any adjacent residential lots, commercial lots, or public roads according to the provisions of Part 5, §27-505, "Required Buffers."

(Ord. 984, 6/14/1999, Art. II, §245)

§27-211. RC Recreation/Conservation District.

1. District Purposes. The RC District was drawn to include Borough properties, larger Philipsburg-Osceola Area School District properties and several large tracts of open, public and/or recreational space. These properties are either especially sensitive due to their location on a steep slope or in a floodplain or especially valuable to the community's recreation, conservation and/or public needs. The provisions of this district are intended to allow the responsible development of these lands.
2. The RC District Regulations: Each land use, lot and structure in this district shall follow the regulations below:
 - A. Within this district, a lot may be used or occupied for the permitted principal uses, permitted accessory uses, temporary uses, special exception uses and conditional uses that are given for this district in §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
 - B. Each land use in this district shall provide off-street parking spaces as required by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
 - C. Each land use in this district shall provide off-street loading berths as required by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
 - D. Unless this Chapter specifically states otherwise, all buildings and lots in this district shall meet the setback requirements, height limitations and lot restrictions that are specified for this district in §27-213, "Setbacks, Height Regulations and Lot Requirements."
 - E. The following vehicle types shall not be parked overnight on a public right-of-way in this district.
 - (1) Any truck or van that either exceeds 11,000 pounds of gross weight or is designated as a Class 5 Vehicle or above by the Pennsylvania Motor Vehicle Code.
 - (2) Construction vehicles.

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- (3) Recreational vehicles.
 - (4) Trailers of any kind, including boat trailers or camper trailers.
 - (5) Agricultural equipment or farm implements.
- F. All portions of a lot in this district which are not used for buildings or other accessory uses shall be attractively landscaped and maintained in good condition.

(Ord. 984, 6/14/1999, Art. II, §250)

§27-212. Land Uses, Off-Street Parking and Off-Street Loading.

1. Purposes, Organization and Applicability of this Section. The main function of this Section is to show five different sets of information which land uses are allowed in each of Philipsburg's zoning districts, how each use is allowed in each district, which sections of the remainder of this Chapter (i.e., Parts 3 through 8) apply to each use, how many off-street parking spaces each use must provide and how many off-street loading berths each use must provide. The organization and applicability of this Section's parts that deal with the first three of these sets are discussed under number subsection (A) below. The organization and applicability of this Section's parts that deal with the last two of these sets are discussed under subsection (B) below. These five sets of information are all shown in this Section because they are all organized by land uses and can therefore be displayed on a single multi-page table saving space and making the Chapter easier to read. This multi-page table is located under subsection (4) of this Section.
 - A. Organization and Applicability of the Land Use. The main body of regulations in this Section is contained in the multi-page table of subsection (4). The first 9 columns of this table contain the land use regulations of this Chapter. Subsection (2) below explains how to read the information presented in these columns. Because these land use regulations apply to every zoning district within the Borough, they apply to every land use within the Borough as well.
 - B. Organization and Applicability of the Off-Street Parking and Loading Regulations. As was noted above, the main body of regulations in this Section is contained in the multi-page table of subsection (4). The tenth column of this table (the second from the right) contains this Chapter's minimum off-street parking space requirements for each land use. The eleventh column (the farthest right) contains this Chapter's minimum off-street loading berth requirements for each land use. subsection (3) below explains how to read the information presented in each of these columns and provides some important interpretative rules. These regulations apply to every land use allowed

in the Borough. However, the required number of parking spaces and loading berths for many land uses (e.g., signs) is zero.

2. Land Uses. How to Read the First Nine Columns of the Table in Subsection (4). The first nine columns of the table in subsection (4) of this Section show which land uses are allowed in each of Philipsburg's 8 zoning districts, how each use is allowed in each district and which Sections of the remainder of this Chapter (i.e., Parts 3 through 8) apply to each use. The information in these columns shall be interpreted as shown in this subsection:
 - A. The first (i.e., farthest left) column of the table in subsection (4) lists the land uses allowed in the Borough of Philipsburg. Each row of the table addresses the land use given in its cell under the first column.
 - B. Each of the second through ninth columns of the table in subsection (4) addresses one of the Borough's 8 zoning districts, whose abbreviated name is given in its heading. The characters found in these 8 columns shall be interpreted as shown in the table below.¹³
 - C. For land uses not listed in the table under subsection (4) the Zoning Hearing Board shall determine which zoning districts they shall be allowed in, how they shall be allowed in those districts (i.e., as permitted principal uses, permitted accessory uses, conditional uses, etc.) and which Sections of the remainder of the Chapter apply to them. The Board may ask the Planning Commission for a recommendation on these matters.

3. Off-Street Parking Spaces and Loading Berths. How to Read the Last Two Columns of the Table in Subsection (4). The tenth (second from the right) column of the table in subsection (4) specifies a minimum number of off-street parking spaces that are to be provided by each land use in the Borough (this number may be zero). The last (farthest right) column of the table specifies a minimum number of off-street loading berths that are to be provided by each land use in the Borough (this number may also be zero). Because the number of off-street parking spaces and/or loading berths needed by a land use varies with the type of land use involved and the size of this land use, the table gives these requirements as use-specific formulas that employ size as a variable to tailor the requirements to the particular home, business or institution at hand. Unless the table notes otherwise, each requirement applies only to the land use given in the first cell of its row. The information in both of these columns shall be interpreted as shown in this subsection:
 - A. Rules for Determining the Required Number of Off-Street Parking Spaces from the 10th Column of the Table.

¹³ Editor's Note: The Land Use, Off-Street Parking and Off-Street Loading Requirements Table and its key can be found at the end of this chapter.

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- (1) The table's off-street parking requirements address only the quantity of the spaces that are to be provided. The location, size, design and maintenance of these spaces is controlled by §27-506, "Off-Street Parking Space and Loading Berth Design." Each parking space in the Borough shall follow the requirements of §27-506.
- (2) Unless the table explicitly states otherwise, a lot or a business that contains more than one use shall provide 100% of the required off-street parking spaces for each of these uses. The off-street parking requirement for convenience stores is an example of an instance in which the table does specifically state otherwise ("1 space per each 200 square feet. of enclosed gross floor area + 80% of the additional parking spaces required by this Table for other land uses on the same premises (e.g., gasoline station).
- (3) When calculations for a use's required number of parking spaces result in a fraction of a space, this fraction shall be rounded up to the next whole number.
- (4) Where the required number of parking spaces for a use is wholly or partially determined by the number of employees that use has or will have, this shall be interpreted as the number of employees that use has or will have on its largest shift.
- (5) On a residential lot containing two dwellings or less, a driveway may count as the number of 8 feet wide by 18 feet long parking spaces that would fit on it.
- (6) Each land use shall provide at least all of the required off-street parking spaces on its own lot unless that use shares parking spaces with other uses who need parking at differing times, employs parking spaces on other lots that are nearby, draws a significant number of clients who walk or ride bicycles and/or cannot meet these requirements due to existing site constraints. If a use fits one or more of these descriptions, it may be excused from the minimum off-street parking requirements of this Section by way of the procedures and conditions specified by §27-507, "Off-Street Parking and Loading Plans."
- (7) When an existing land use or structure is expanded, additional parking spaces shall be provided as required by the table. However, no expansion, alteration, subdivision or combination of any lot, structure or land use shall reduce or eliminate any pre-existing off-street parking requirements from this Chapter.
- (8) The off-street parking space requirements of land uses that are not listed in the table or lots or buildings whose use is not yet known to the level of detail required by the Table shall be determined by Bor-

ough Council who may ask for a recommendation on the matter from the Planning Commission.

- B. Rules for Determining the Required Number of Off-Street Loading Berths from the Last Column of the Table.
- (1) Uses which have a gross floor area of less than 2,500 square feet are exempt from all off-street loading berth requirements of this Chapter.
 - (2) The table's off-street loading requirements address only the quantity of the berths that are to be provided. The location, size, design and maintenance of these berths is controlled by §27-506, "Off-Street Parking Space and Loading Berth Design." Each loading berth in the Borough shall follow the requirements of §27-506.
 - (3) Unless the table explicitly states otherwise, a lot or structure that contains more than one use shall provide 100% of the required loading berths for each of these uses.
 - (4) When calculations for a use's required number of loading berths result in a fraction of a berth, this fraction shall be rounded up to the next whole number.
 - (5) Each land use shall provide at least all of the required off-street loading berths on its own lot unless that use cannot meet this requirement due to existing site constraints. In such a situation, the use may be excused from the minimum off-street loading requirements of this section via the procedures and conditions specified by §27-507, "Off-Street Parking and Loading Plans."
 - (6) When an existing land use or structure is expanded, additional loading berths shall be provided as required by the table. However, no expansion, alteration, subdivision, or combination of any lot, structure, or land use shall reduce or eliminate any pre-existing off-street loading requirements from this Chapter.
 - (7) The loading berth requirements of land uses that are not listed in the table below and lots or buildings whose use is not yet known to the level of detail required by the Table below shall be determined by Borough Council, who may ask for a recommendation on the matter from the Planning Commission.
4. Land Use, Off-Street Parking and Off-Street Loading Requirements Table. All lots, structures and land uses in the Borough of Philipsburg shall follow the requirements of the table below, as explained above.¹⁴

¹⁴ Editor's Note: The Land Use, Off-Street Parking and Off-Street Loading Requirements Table and its key can be found at the end of this chapter.

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(Ord. 984, 6/14/1999, Art. II, §265)

§27-213. Setbacks, Height Regulations and Lot Requirements.

1. Purposes, Organization and Applicability of this Section. The function of this Section is to provide district-specific minimum setback restrictions for structures, maximum setback restrictions for structures, maximum height regulations for structures, minimum area requirements for lots, minimum frontage requirements for lots and maximum lot coverage requirements for structures. The main body of this Section's regulations can be found in the Table under subsection (3). The various regulations discussed above form this Table's rows and Philipsburg's 8 zoning districts form the Table's columns. Exceptions to the regulations shown in this Table are listed under subsection (2). Note that the exact definitions of the terms and regulations used in this Section can be found in Part 8, Terminology. Because the regulations of this Section apply to each of Philipsburg's 8 zoning districts, they apply to every building, structure and lot in the Borough except those noted under subsection (2) below.
2. Exceptions to the Regulations of this Section.
 - A. Building and structure projections may exceed the height limits of their district if they are one of the following items.
 - (1) A chimney or smokestack.
 - (2) A public or commercial communications tower that contains public or commercial communications equipment and is mounted on the ground. However, commercial communications equipment that rises from the roof of a building shall not be exempted from the height requirements of its district.
 - (3) An integral part of a commercial or industrial process whose height is necessary in order for the process to work (e.g., a grain elevator).
 - (4) A steeple, cupola, spire, belvedere, turret, or other similar architectural element that rises from the roof of a building, but does not include a dwelling.
 - B. Fences, walls and other screens may ignore this section's setback requirements, but must follow the requirements of §503, "Fences, Walls and Other Screens." Likewise, radio and television antennas may ignore this Section's setback requirements, but must follow the requirements of §504, "Radio and/or Television Antennas."
 - C. Signs may ignore this Section's setback requirements, but must follow the requirements of Part 6, "Signs."

3. Setback, Height Regulation and Lot Requirement Table.

A. All lots, buildings, and structures except those noted under subsection (2) above shall follow the regulations in the Table below.

Regulation	R1A	R1B	R2	R3	C1	C2	I	RC
Minimum front setback for non-corner lot	20 ft.	7 ft.	15 ft.	10 ft.	6 ft.	15 ft.	15 ft.	30 ft.
Maximum front setback for non-corner lots		15 ft.	40 ft.					
Minimum side setback for non-corner lots	8 ft.	2 ft.	3 ft.	10 ft.	0 ft.	15 ft.	10 ft.	30 ft.
Minimum rear setback for non-corner lots	10 ft.	3 ft.	5 ft.	10 ft.	6 ft.	15 ft.	5 ft.	30 ft.
Minimum front setback for corner lots	30 ft.	7 ft.	10 ft.	10 ft.	6 ft.	15 ft.	15 ft.	30 ft.
Maximum front setback for corner lots		15 ft.	40 ft.					
Minimum side street setback for corner lots	20 ft.	7 ft.	8 ft.	10 ft.	6 ft.	15 ft.	10 ft.	30 ft.
Maximum side street setback for corner lots		15 ft.	20 ft.					
Minimum non-side street setback for corner lots	5 ft.	3 ft.	3 ft.	10 ft.	0 ft.	15 ft.	5 ft.	30 ft.
Minimum rear setback for corner lots	5 ft.	3 ft.	3 ft.	10 ft.	6 ft.	15 ft.	5 ft.	30 ft.
Maximum height for permitted principal uses	35 ft.	50 ft.	75 ft.	35 ft.	100 ft.	60 ft.	75 ft.	50 ft.
Maximum height for permitted accessory uses	20 ft.	20 ft.	20 ft.	20 ft.	40 ft.	40 ft.	40 ft.	40 ft.
Minimum lot area for lots that do not contain a gas station	5,000 sq. ft.	1,000 sq. ft.	1,000 sq. ft.	2,500 sq. ft.	1,000 sq. ft.	8,500 sq. ft.	4,000 sq. ft.	8,000 sq. ft.
Minimum lot area for lots that contain a gas station		12,500 sq. ft.			12,500 sq. ft.	12,500 sq. ft.	12,500 sq. ft.	
Minimum lot frontage	50 ft.	20 ft.	16 ft.	40 ft.	20 ft.	60 ft.	50 ft.	40 ft.
Maximum lot coverage	50%	80%	80%	40%	95%	70%	80%	30%

(Ord. 984, 6/14/1999, Art. II, §213)

PART 3**SPECIAL EXCEPTIONS AND CONDITIONAL USES****§27-301. Purposes, Organization and Applicability of This Part.**

1. Both a "special exception" and a "conditional use" are permissions granted to an applicant to use land in a zoning district for a purpose or land use that is not permitted outright (i.e., that is not a permitted principal or accessory use) in that district. Special exceptions and conditional uses are utilized by this Chapter because merely allowing and not allowing land uses is too narrow for sound planning in some zoning districts. Some land uses fall in between what is consistent and what is not consistent with a district's planned way of life. Furthermore, some uses should be located in a district, but should be very carefully sited or controlled in order to protect the district's overall quality of life. Establishing a special exception/conditional use system for Philipsburg that allows such land uses in appropriate zoning districts, subject to location and operation standards that are to protect the quality of life in those districts, is the general purpose of this Part.
2. The major difference between special exceptions and conditional uses is that the former are granted or denied by the Zoning Hearing Board, while the latter are granted or denied by the Borough Council. Land uses that are allowed as special exceptions generally affect only their particular neighborhoods, while land uses that are allowed as conditional uses may affect the entire Borough and thus, should be under the jurisdiction of the Borough's primary elected officials (i.e., the Council). The multi-page table under §27-212(4), "Land Uses, Off-Street Parking and Off-Street Loading" and other parts of this Chapter state which land uses are allowed in which zoning districts as special exceptions, and which land uses are allowed in which zoning districts as conditional uses.¹⁵
3. It is important to note that special exceptions and conditional uses are not deviations from this Chapter or its purposes listed in §27-104. "General Purposes of This Chapter." These uses are both envisioned by this Chapter and if the location and operation standards prescribed by this Part are followed permitted by this Chapter.
4. The procedure that an applicant is to use in obtaining a special exception or a conditional use is provided in §27-302, "Procedure for Obtaining a Special Exception or a Conditional Use." The standards that the Zoning Hearing Board or the Borough Council (as the case may be) is to use in determining whether or not a special exception or conditional use (as the case may be) should be granted to the applicant are provided in §27-303, "Standards that are to be Used to Grant a Special Exception or a Conditional Use." This Part and its regulations only apply to land uses that are proposed to be established in a zoning district where those uses

¹⁵ Editor's Note: This Chapter currently does not allow any land uses in any districts as conditional uses.

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are allowed only as special exceptions or conditional uses by §27-212, "Land Uses, Off-Street Parking, and Off-Street Loading" or other parts of this Chapter.

(Ord. 984, 6/14/1999, Art. III, §300)

§27-302. Procedure for Obtaining a Special Exception or a Conditional Use.

All applications for special exceptions and conditional uses shall be made according to the following rules.

- A. **Who May Apply:** Any landowner or tenant with the written permission of his or her landowner may apply for a special exception or conditional use.
- B. **Land Uses that may be Permitted through a Special Exception or a Conditional Use.** The only land uses that may be permitted through a special exception or a conditional use are those that are expressly permitted as special exceptions or conditional uses for the involved zoning district by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading" or other parts of this Chapter.
- C. **Applying to the Zoning Officer.** Any one of the aforementioned parties who wishes to establish a land use that is permitted in the involved zoning district as a special exception or a conditional use shall file an application with the Zoning Officer on a form supplied by the Borough. This application shall not be considered complete unless enough information is included on the form to enable the Zoning Hearing Board or the Borough Council (as the case may be) to determine if the proposed land use meets the standards given for that use under §27-303. Upon receiving a complete application, the Zoning Officer shall forward it to the Zoning Hearing Board if the application is for a special exception or to Borough Council if the application is for a conditional use.
- D. **Procedure that the Zoning Hearing Board is to Use in Deciding on a Special Exception Application.** The procedure that the Zoning Hearing Board is to use in deciding whether or not to grant a special exception is given in §27-702(8), "Zoning Hearing Board."
- E. **Procedure that Borough Council is to Use in Deciding on a Conditional Use Application.** The procedure that Borough Council is to use in deciding whether or not to grant a conditional use is given in §27-703(2)(C), "Borough Council."
- F. **Burdens of Proof.** In both special exception hearings and conditional use hearings, the burden of proof shall be on the applicant to prove that his or her proposed use meets the standards prescribed for it by §27-303, "Standards that are to be Used to Grant a Special Exception or a Conditional Use."

- G. Conditions. In granting a special exception or a conditional use, the Zoning Hearing Board or the Borough council (as the case may be) may attach reasonable conditions and safeguards (in addition to those prescribed by §37-303) as it may deem necessary to implement the purposes of this Chapter (see §27-104, "General Purposes of this Chapter"). Such conditions shall "run with the land" and shall not be tied solely to a particular property owner. If a condition is violated subsequent to the grant of a special exception or a conditional use, it shall be enforced according to the provisions of §27-119, "Enforcement."
- H. Appealing the Decision of the Zoning Hearing Board or the Borough Council. The decision of the Zoning Hearing Board regarding a special exception application or the decision of the Borough Council regarding a conditional use application may be appealed to the Centre County Court of Common Pleas.
- I. Zoning and Occupancy Permits. Zoning and occupancy permits shall be required for each approved special exception or conditional use. §§27-105, "Zoning Permits," and 27-116, "Occupancy Permits" explain how and when to get these permits.

(Ord. 984, 6/14/1999, Art. III, §305)

§27-303. Standards That Are to be Used to Grant a Special Exception or Conditional Use.

- 1. Purpose and Organization of this Section. The purpose of this Section is to provide standards that the Zoning Hearing Board is to use in deciding whether or not to grant a special exception use or that the Borough Council is to use in deciding whether or not to grant a conditional use. Each land use or activity that is permitted as a special exception or a conditional use in one or more zoning districts by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading" or another part of this Chapter is listed in alphabetical order under subsection (4) below. Each application made under §27-302, "Procedure for Obtaining a Special Exception or a Conditional Use" must meet the standards given under the listing of the involved land use or activity in order to obtain a special exception or a conditional use. Note that both the standards for land uses that this Chapter permits as special exceptions and the standards for land uses that this Chapter permits as conditional uses are provided in the same list.
- 2. Standards.
 - A. Banks or Financial Institutions. These may be permitted in the R1B District as special exceptions only if:

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- (1) The proposed bank will follow all provisions of this Chapter, including all parking requirements.
 - (2) The proposed bank will not have a gross floor area of more than 6,000 square feet.
 - (3) The proposed bank constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.
 - (4) The proposed bank will not substantially impair, alter or detract from the value, use or enjoyment of surrounding properties via fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.
 - (5) The proposed bank will not congest the Borough's streets or highways.
 - (6) The proposed bank will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.
 - (7) The proposed bank will provide for safe automobile and truck access that, where possible, minimizes the total number of access points on the involved street or highway and provides ample storage space on driveways for vehicles entering and leaving the premises.
 - (8) The proposed bank's driveways or entranceways will be at least 30 feet from the intersection of any public streets.
 - (9) The proposed bank will not require an uneconomical, inefficient or illogical extension of public utilities and services.
 - (10) The hours of operation of the proposed bank (excluding any automatic teller machines) will not disturb the lifestyle of its neighbors.
- B. Bars, Taverns, Night Clubs or Dance Halls. These may be permitted in the R1B District as special exceptions only if:
- (1) The proposed land use will follow all provisions of this Chapter.
 - (2) The proposed land use will not have a gross floor area of more than 5,000 square feet.
 - (3) The proposed land use constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.

- (4) The proposed land use will not substantially impair, alter or detract from the value, use or enjoyment of surrounding properties via fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.
 - (5) The proposed use will not congest the Borough's streets or highways.
 - (6) The proposed use will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.
 - (7) The proposed use will provide for safe automobile and truck access that, where possible, minimizes the total number of access points on the involved street or highway and provides ample storage space on driveways for vehicles leaving the premises.
 - (8) The proposed use will not require an uneconomical, inefficient or illogical extension of public utilities and services.
 - (9) The exterior areas of the proposed use will be adequately lighted.
 - (10) The hours of operation of the proposed use will not disturb the lifestyle of its neighbors.
 - (11) Refuse from the proposed use will be stored in a location that is as undetectable as possible from neighboring lots and will be removed for disposal regularly.
 - (12) The proposed use will not threaten the safety, health, morals and general welfare of the Borough and its citizens.
- C. Beauty Parlors and Barbershops. These may be permitted in the R1B District as special exceptions only if:
- (1) The proposed land use will follow all provisions of this Chapter.
 - (2) The proposed land use will not have a gross floor area of more than 3,500 square feet.
 - (3) The proposed land use constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.
 - (4) The proposed land use will not substantially impair, alter or detract from the value, use, or enjoyment of surrounding properties via fumes, odors, vibrations, glare, electrical interference, radio or television sig-

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nal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.

- (5) The proposed use will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk, or parking area.
- (6) The proposed use will provide for safe automobile access that, where possible, minimizes the total number of access points on the involved street or highway.
- (7) The proposed use will not require an uneconomical, inefficient or illogical extension of public utilities and services.
- (8) Refuse from the proposed use will be stored in a location that is as undetectable as possible from neighboring lots and will be removed for disposal regularly.

D. **Bed and Breakfast Establishments.** A bed and breakfast establishment may be permitted in the R1B and R2 Districts as a special exception only if the proposed use meets the conditions below. In approving such an establishment, the Zoning Hearing Board may set limits on the number of guests who may stay there at any one time in order to minimize negative impacts on adjacent properties:

- (1) The proposed establishment will follow all provisions of this Chapter, including all parking requirements.
- (2) The proposed establishment constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.
- (3) The owner/operator of the proposed establishment will live on the premises.
- (4) The proposed establishment will not substantially impair, alter, or detract from the value, use or enjoyment of surrounding properties via fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.
- (5) The proposed establishment will not impair the access, sight lines or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.
- (6) The proposed establishment will not require an uneconomical, inefficient or illogical extension of public utilities and services.

- (7) The proposed establishment will provide food service only for its guests, unless a restaurant is established within the building on a separate basis.
- (8) Refuse from the proposed establishment will be stored in a location that is as undetectable as possible from neighboring lots and will be removed for disposal regularly.

E. Clubs and Lodges. These may be permitted in the R1B and R2 Districts as special exceptions only if:

- (1) The proposed land use will follow all provisions of this Chapter.
- (2) The proposed land use constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.
- (3) The proposed land use will not substantially impair, alter or detract from the value, use or enjoyment of surrounding properties by way of fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.
- (4) The proposed use will not congest the Borough's streets or highways.
- (5) The proposed use will not impair the access, sight lines or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.
- (6) The proposed use will provide for safe automobile and truck access that, where possible, minimizes the total number of access points on the involved street or highway and provides ample storage space on driveways for vehicles leaving the premises.
- (7) The proposed use will not require an uneconomical, inefficient or illogical extension of public utilities and services.
- (8) The exterior areas of the proposed use will be adequately lighted.
- (9) The hours of operation of the proposed use will not disturb the lifestyle of its neighbors.
- (10) Refuse from the proposed use will be stored in a location that is as undetectable as possible from neighboring lots and will be removed for disposal regularly

F. Convenience Stores. These may be permitted in the R1B District as special exceptions only if:

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- (1) The proposed store will follow all provisions of this Chapter, including all parking requirements.
- (2) The proposed store will not have a gross floor area of more than 6,000 square feet.
- (3) The proposed store constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.
- (4) The proposed store will not substantially impair, alter or detract from the value, use or enjoyment of surrounding properties via fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.
- (5) The proposed store will not congest the Borough's streets or highways.
- (6) The proposed store will not impair the access, sight lines or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.
- (7) The proposed store will provide for safe automobile and truck access that, where possible, minimizes the total number of access points on the involved street or highway and provides ample storage space on driveways for vehicles leaving the premises.
- (8) The proposed store's driveways or entranceways will be at least 30 feet from the intersection of any public streets.
- (9) The proposed store will not require an uneconomical, inefficient, or illogical extension of public utilities and services.
- (10) The proposed store will not provide vehicular repair or maintenance services.
- (11) The proposed store will also meet the standards prescribed by this Section for gasoline stations (if the store is to include a gasoline station).
- (12) The hours of operation of the proposed store will not disturb the lifestyle of its neighbors.
- (13) Refuse from the proposed store will be stored in a location that is as undetectable as possible from neighboring lots and will be removed for disposal regularly.

- G. Fences, Walls and Other Screens that are Taller than the Height Limits Set by §27-503. Such fences, walls and other screens may be permitted in any district as a special exception only if:
- (1) The proposed fence, wall or other screen will follow all other requirements of this Chapter.
 - (2) The proposed fence, wall or other screen will be strong enough both to withstand any wind pressure that may be applied to it under normal storm conditions and to avoid threatening the health, lives or property of those around it.
 - (3) The proposed fence, wall or other screen will not constitute a fire hazard.
 - (4) The proposed fence, wall or other screen will not deny a significant amount of light or air to neighboring properties.
 - (5) The proposed fence, wall or other screen will not impair the sight lines or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.
- H. Fences, Walls and Other Screens that Include Barbs, Thorns, electric Wires Designed to Shock or Other Harmful Components. (See §27-503, Fences, Walls and Other Screens). Such fences, walls and other screens may be permitted in any district as a special exception only if:
- (1) The proposed fence, wall or other screen will follow all other requirements of this Chapter.
 - (2) The barbs, thorns, electric wires or other harmful components are necessary to protect property or the public health.
 - (3) The barbs, thorns, electric wires or other harmful components will be made as attractive as is possible.
 - (4) The proposed fence, wall, or other screen will be strong enough both to withstand any wind pressure that may be applied to it under normal storm conditions and to avoid threatening the health, lives or property of those around it.
 - (5) The proposed fence, wall or other screen will not constitute a fire hazard.
 - (6) The proposed fence, wall, or other screen will not impair the sight lines or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk, or parking area.

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- I. Funeral Homes or Mortuaries. These may be permitted in the R1B District as special exceptions only if:
 - (1) The proposed use will follow all provisions of this Chapter, including all parking requirements.
 - (2) The proposed use will not substantially impair, alter or detract from the value, use or enjoyment of surrounding properties by way of fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.
 - (3) The proposed use will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.
 - (4) The proposed use will provide for safe automobile and truck access that, where possible, minimizes the total number of access points on the involved street or highway and provides ample storage space on driveways for vehicles leaving the premises.
 - (5) The proposed use will not require an uneconomical, inefficient or illogical extension of public utilities and services.
 - (6) Refuse from the proposed use will be stored in a location that is as undetectable as possible from neighboring lots and will be removed for disposal regularly.

- J. Gasoline Stations. Gasoline stations may be permitted in the R1B District as special exceptions only if.
 - (1) The proposed station will follow all provisions of this Chapter.
 - (2) The proposed station will not substantially impair, alter, or detract from the value, use, or enjoyment of surrounding properties via fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.
 - (3) The proposed station will not store vehicles less than 10 feet from property lines, right-of-ways or sidewalks.
 - (4) The proposed station will not store unlicensed vehicles outside of a building for more than 30 days.
 - (5) The proposed station will not impair the access, sight lines or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.

- (6) The proposed station will provide for safe automobile and truck access that, where possible, minimizes the total number of access points on the involved street or highway and provides ample storage space on driveways for vehicles leaving the premises.
- (7) The proposed station's driveways or entranceways will be at least 30 feet from the intersection of any public streets.
- (8) The proposed station's fuel pumps, air towers and water outlets will be located no closer than 10 feet from any property line.
- (9) All automobile parts or supplies on the proposed station's lot, except for those displayed for sale at the fuel pump, will be stored within a building.
- (10) The proposed station will not require an uneconomical, inefficient or illogical extension of public utilities and services.
- (11) The proposed station will also meet the standards prescribed by this Section for convenience stores (if the station is to include a convenience store).
- (12) Refuse from the proposed station will be stored in a location that is as undetectable as possible from neighboring lots and will be removed for disposal regularly.

K. Laundromats and Commercial Laundries. These may be permitted in the R1B District as special exceptions only if:

- (1) The proposed land use will follow all provisions of this Chapter.
- (2) The proposed land use will not have a gross floor area of more than 5,000 square feet.
- (3) The proposed land use constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.
- (4) The proposed land use will not substantially impair, alter or detract from the value, use or enjoyment of surrounding properties by way of fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.
- (5) The proposed use will not congest the Borough's streets or highways.

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- (6) The proposed use will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.
 - (7) The proposed use will provide for safe automobile access that, where possible, minimizes the total number of access points on the involved street or highway.
 - (8) The proposed use will not require an uneconomical, inefficient or illogical extension of public utilities and services.
 - (9) Refuse from the proposed use will be stored in a location that is as undetectable as possible from neighboring lots and will be removed for disposal regularly.
- L. Major Impact Home Occupations. A major impact home occupation (see §27-502, Home Occupations) may be permitted in the R1A, R1B, R2, R3 and C1 Districts as a special exception only if it meets the conditions given below. If the Zoning Hearing Board decides to grant a special exception to such a business, the Board shall set a required number of off-street parking spaces and a required number of off-street loading berths for the occupation (beyond the requirements of the involved home). These required numbers shall be based on a case-by-case analysis of the home occupation's parking and loading needs, and may use the parking and loading requirements of §27-212(4), "Land Uses, Off-Street Parking and Off-Street Loading" as a guide:
- (1) There will be no evidence of the home occupation's existence on the exterior of its building except for a sign that meets the requirements of Part 6, "Signs."
 - (2) There will be no retail sales directly to customers on the premises, except by way of the mail, telephone or Internet.
 - (3) The area devoted to the home occupation will not exceed 25% of the involved residential unit's total ground floor area.
 - (4) No exterior displays of goods or interior displays of goods that are visible from the outside of the involved residence will be utilized.
 - (5) No materials or products will be stored outside the dwelling unit unless they are kept in an enclosed structure that complies with the requirements of this Chapter.
 - (6) No equipment or process will be used in the home occupation that creates noise, vibration, glare, fumes, odors or electrical interference detectable to normal senses in other residential units.

- (7) No equipment or process will be used that creates visual or audible interference in any radio or television outside of the involved residential unit or that causes significant fluctuations in line voltage outside of that unit.
 - (8) The home occupation will only employ members of the household living in the involved dwelling unit.
 - (9) The proposed home occupation is not a nursery school, dancing school, exercise or health center, day care center, funeral home, mortuary, eating or drinking establishment, animal kennel, animal hospital, veterinarian office, boarding house, personal care home, medical or dental clinic, motor vehicle repair or rental facility, theater or commercial recreation facility.
 - (10) Refuse from the proposed home occupation will be stored in a location that is as undetectable as possible from neighboring lots, and will be removed for disposal regularly.
- M. Off-Street Loading Plans. An off-street loading plan that reduces the number of off-street loading berths required by this Chapter for a particular land use may be approved as a special exception in any zoning district only if that plan meets the requirements of §27-506(3), "Off-Street Parking and Loading Plans."
- N. Off-Street Parking Plans. An off-street parking plan that reduces the number of off-street parking spaces required by this Chapter for a particular land use may be approved as a special exception in any zoning district only if that plan meets the requirements of §27-506(4), "Off-Street Parking and Loading Plans."
- O. Radio and/or Television Antennas That Do Not Meet the Requirements of §27-504(3), Radio and/or Television Antennas. Such devices may be permitted as special exceptions in all zoning districts only if:
- (1) The minimum setbacks from property lines given in §27-504 do not allow an antenna to be located anywhere on the involved lot at a reasonable cost.
 - (2) The restrictions of §27-504 practically forbid quality reception or transmission on the involved lot.
 - (3) The proposed antenna is consistent with the character and type of development in the neighborhood surrounding the involved lot.
 - (4) The proposed antenna will not substantially impair, alter or detract from the value, use, or enjoyment of surrounding properties via vibrations, glare, electrical interference, radio or television signal interfer-

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ence, voltage fluctuations or other noxious, offensive or hazardous elements.

- (5) The proposed antenna will not impair the access, sight lines, or safety of any public roadways or driveways, private roadways or driveways, pedestrian walks or parking areas.

P. Residential House, Building or Mobile home Containing More than One Building. These may be permitted as special exceptions in the R1B, R2, and C1 Districts only if:

- (1) The proposed building will follow all provisions of this Chapter, including all parking requirements.
- (2) Each dwelling unit within the proposed building will have a gross floor area of no less than 640 square feet.
- (3) The proposed building constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.
- (4) The proposed building will not significantly deteriorate the residential appearance of its lot or its neighborhood.
- (5) The proposed building will not require an uneconomical, inefficient or illogical extension of public utilities and services.
- (6) The proposed building's driveways or entranceways will be at least 30 feet from the intersection of any public streets.

Q. Residential House or Building Containing More than One Dwelling in Which All Dwellings are Exclusively for the Elderly. These may be permitted as special exceptions in the R1B, R2, and C1 Districts only if:

- (1) The proposed building will follow all provisions of this Chapter, including all parking requirements.
- (2) Each dwelling unit within the proposed building will have a gross floor area of no less than 640 square feet.
- (3) The proposed building constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.
- (4) The proposed building will not significantly deteriorate the residential appearance of its lot or its neighborhood.

- (5) The proposed building will not require an uneconomical, inefficient or illogical extension of public utilities and services.
 - (6) The proposed building's driveways or entranceways will be at least 30 feet from the intersection of any public streets.
- R. Restaurants (Sit Down, Including Restaurants With Bars). Such restaurants may be permitted in the R1B District as special exceptions only if:
- (1) The proposed restaurant will follow all provisions of this Chapter.
 - (2) The proposed restaurant will not have a gross floor area of more than 5,000 square feet.
 - (3) The proposed restaurant constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.
 - (4) The proposed restaurant will not substantially impair, alter or detract from the value, use, or enjoyment of surrounding properties via fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.
 - (5) The proposed restaurant will not congest the Borough's streets or highways.
 - (6) The proposed restaurant will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.
 - (7) The proposed restaurant will provide for safe automobile and truck access that, where possible, minimizes the total number of access points on the involved street or highway and provides ample storage space on driveways for vehicles leaving the premises.
 - (8) The proposed restaurant will not require an uneconomical, inefficient, illogical extension of public utilities and services.
 - (9) The exterior areas of the proposed restaurant will be adequately lighted.
 - (10) The hours of operation of the proposed restaurant will not disturb the lifestyle of its neighbors.
 - (11) Refuse from the proposed restaurant will be stored in a location that is as undetectable as possible from neighboring lots and will be removed for disposal regularly.

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- (12) The proposed restaurant will not threaten the safety, health, morals and general welfare of the Borough and its citizens.
- S. Sexually Oriented Businesses. Adult arcades, adult bookstores, adult video stores, adult cabarets, adult motels, adult motion picture theaters, adult theaters, escort agencies, nude model studios, sexual encounter centers and other businesses classified as sexually oriented businesses by this Chapter may be permitted in the 1 District as special exceptions only if they meet the conditions below:
- (1) Note that the provisions of this subsection do not apply to modeling classes operated by a proprietary school licensed by the Commonwealth of Pennsylvania, a college, junior college, or university supported entirely or partly by taxation or a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation. Furthermore, the provisions of this subsection do not apply to structures that have no signs visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing, contain a class where students must enroll at least 3 days in advance and where no more than one nude model is on the premises at any one time.
 - (2) For the purposes of subsection (1) below, measurements shall be made in a straight line without regard to intervening structures or objects from the nearest portion of a building or structure used as a part of a premises where a sexually oriented business is conducted to the nearest property line of a premises of a church, public or private pre-elementary, elementary or secondary school, public library; child care facility; child-oriented business, nursery school or affected public park. For the purposes of subsection (2) below, measurements shall be made in a straight line without regard to intervening structures or objects from the closest exterior wall of the structure in which each sexually oriented business is located.
 - (3) A sexually oriented business that is legally operating on the effective date of this Chapter's enactment (see §27-106, "Effective Date of This Chapter's Enactment" and in violation of subsections (1) or (2) below shall be deemed a nonconforming use (see §27-117, "Nonconformities"). However, no sexually oriented business shall be deemed a nonconforming use due to the subsequent location of a church; public or private pre-elementary, elementary or secondary school; public library; child care facility; child-oriented business, nursery school or public park within 150 feet of that business. Sexually oriented businesses may be permitted as special exceptions only if:

- (a) The proposed business will not be located within 150 feet of a church, a public or private pre-elementary, elementary or secondary school, a public library; a child care facility or nursery school, a public park adjacent to any residential district or a child-oriented business.
- (b) The proposed business will not be located within 150 feet of another sexually oriented business.
- (c) The proposed business will follow all provisions of this Chapter, including all parking and buffering requirements.
- (d) The proposed business constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.
- (e) The proposed business will not substantially impair, alter or detract from the value, use, or enjoyment of surrounding properties via fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.
- (f) The proposed business will not congest the Borough's streets or highways.
- (g) The proposed business will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.
- (h) The proposed business will provide for safe automobile and truck access that, where possible, minimizes the total number of access points on the involved street or highway and provides ample storage space on driveways for vehicles leaving the premises.
- (i) The proposed business will not require an uneconomical, inefficient or illogical extension of public utilities and services.
- (j) The exterior areas of the proposed business will be adequately lighted.
- (k) The hours of operation of the proposed business will not disturb the lifestyle of its neighbors.
- (l) Refuse from the proposed business will be stored in a location that is as undetectable as possible from neighboring lots and will be removed for disposal regularly.

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- T. Warehouses. These may be permitted in the R1B District as special exceptions only if:
- (1) The proposed warehouse will follow all provisions of this Chapter, including all parking and buffering requirements.
 - (2) The proposed warehouse will not have a gross floor area of more than 6,000 square feet.
 - (3) The proposed warehouse constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.
 - (4) The proposed warehouse will not substantially impair, alter or detract from the value, use, or enjoyment of surrounding properties via fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.
 - (5) The proposed warehouse will be located on a street with the capacity to easily handle all forms of vehicles that will make deliveries to the premise.
 - (6) The proposed warehouse will not impair the access, sight lines or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.
 - (7) The proposed warehouse will provide for safe automobile and truck access that, where possible, minimizes the total number of access points on the involved street or highway and provides ample storage space on driveways for vehicles leaving the premises.
 - (8) The proposed warehouse's driveways or entranceways will be at least 30 feet from the intersection of any public streets.
 - (9) The proposed warehouse will not require an uneconomical, inefficient or illogical extension of public utilities and services.
 - (10) The delivery times of the proposed warehouse will not disturb the lifestyle of its neighbors.

(Ord. 984, 6/14/1999, Art. III, §310)

PART 4

TEMPORARY USES

§27-401. Purposes, Organization and Applicability of This Part.

1. Section 27-212, "Land Uses, Off-Street Parking and Off-Street Loading," specifies that some land uses may be established in certain zoning districts as "temporary uses." This means that these uses may be operated in these districts only for a limited period of time and only if they are approved by Borough Council. These uses are typically a worthwhile or even vital part of modern community life. However, the drastic effects that they can sometimes have on their neighborhoods necessitates their having a limited lifespan and being under the jurisdiction of Council. Establishing such a temporary use system for Philipsburg is the general purpose of this Part.
2. It is important to note that temporary uses like special exceptions and conditional uses are not deviations from this Chapter or its purposes listed in §27-104, "General Purposes of This Chapter." These uses are both envisioned by this Chapter and if the provisions of this article are followed permitted by this Chapter.
3. The procedure that an applicant is to use to obtain a temporary use is spelled out in §27-402, "Procedure for Obtaining a Temporary Use." The standards that the Borough Council is to use in determining whether or not a temporary use should be granted to an applicant and how long the temporary use should be allowed to exist are provided in §27-403, "Standards that are to be Used to Grant a Temporary Use." This Part only applies to land uses that are proposed to be established in a zoning district where they are allowed as temporary uses by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."

(Ord. 984, 6/14/1999, Art. IV, §400)

§27-402. Procedure for Obtaining a Temporary Use.

All applications for temporary uses shall be made according to the following rules:

- A. Who May Apply. Any landowner or tenant with the written permission of his or her landowner may apply for a temporary use.
- B. Land Uses that may be Permitted through a Temporary Use. The only land uses that may be permitted through a temporary use are those that are expressly permitted as temporary uses in the involved zoning district by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
- C. Applying to the Zoning Officer. Any one of the aforementioned parties who wishes to establish a temporary use shall file an application with the Zoning

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Officer on a form supplied by the Borough. This application shall state the period of time during which the applicant wishes to operate the proposed use, and shall not be considered complete unless enough information is included on the form to enable Borough Council to determine if the proposed use meets the standards of §27-403. Upon receiving a complete application, the Zoning Officer shall forward it to Borough Council.

- D. The Procedure that Borough Council is to Use in Deciding on a Temporary Use Application. The procedure that Borough Council is to use in deciding whether or not to grant a temporary use is given in §27-703(2), "Borough Council."
- E. Burdens of Proof. In temporary use hearings, the burden of proof shall be on the applicant to prove that his or her proposed use meets the standards prescribed for it by S§27-403, "Standards that are to be Used to Grant a Temporary Use."
- F. Appealing the Decision of the Borough Council. The decision of the Borough Council regarding a temporary use application may be appealed to the Centre County Court of Common Pleas.
- G. Occupancy Permits. An applicant who successfully applies for a temporary use must also obtain an occupancy permit for that use after all development activities on the involved site are completed. §27-116, "Occupancy Permits" explains how to obtain such a permit.
- H. Violations. If a party that receives a temporary use subsequently violates the standards under which that use was granted, those standards shall be enforced according to the provisions of §27-119, "Enforcement."

(Ord. 984, 6/14/1999, Art. IV, §405)

§27-403. Standards That are to be Used to Grant a Temporary Use.

1. Purpose and Organization of this Section. The purpose of this Section is to provide standards that the Borough Council is to use in deciding whether or not to grant a temporary use and determining how long an approved temporary use should be allowed to exist. The former set of standards are listed under subsection (2) below, while the latter set are listed under subsection (3). Each land use or activity that is permitted as a temporary use in one or more zoning districts by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading" is listed in alphabetical order below:

Temporary Uses

model home sales office

Zoning Districts In Which They Are Permitted

R1A, R1B, R2, and R3

Temporary Uses	Zoning Districts In Which They Are Permitted
multi-household residential complex sales of- fice	R2 and C1
sales event (temporary)	C1, C2, and I
special event, festival, fair exhibit, or show sponsored by a nonprofit organization	all zoning districts
special event, festival, fair, exhibit, or show that is not in the above category	C1, C2, and I

2. Standards that the Borough Council is to Use in Determining Whether or Not to Grant a Temporary Use. Borough Council may only grant a temporary use to an applicant if the applicant:
 - A. Provides proof that the proposed use will have adequate off-street parking.
 - B. Provides proof that the proposed use will have adequate pedestrian and traffic access.
 - C. Has obtained all licenses and permits on the proposed use's behalf that governmental agencies may require for the selling or handling of food or other products.
 - D. Has notified the Borough's Chief of Police and Fire Chief of the proposed use.
 - E. Provides Council with a letter from the owner of the land on which the proposed use will occur that approves the use (if the applicant does not own the land himself).
 - F. Provides Council with a letter stating that he or she will assume responsibility for any on-site activities that are directly related to the proposed temporary use.

3. Standards that the Borough Council is to Use in Determining How Long a Temporary Use Should be Allowed to Exist. If an application for a temporary use is approved, Council shall determine the dates between which the use will be permitted to operate. In making this determination, Council shall weigh the temporary use's benefit to the community against any burdens that it may cause its neighbors. However, the Council shall not allow a single land use to have temporary sales events for more than 30 days in any calendar year.

(Ord. 984, 6/14/1999, Art. IV, §410)

PART 5**SUPPLEMENTAL REGULATIONS****§27-501. General Purpose and Applicability of This Part.**

There are sets of regulations in this Chapter that apply to land uses, lots and/or structures that can be located in several of Philipsburg's zoning districts. Some of these regulations are given just once in this Part. This is a simpler and shorter way of providing these regulations than repeating them once in each applicable zoning district's provisions (zoning district provisions constitute Part 2). Thus, each Section of this Part is applicable to a particular land use, lot or structure in a particular zoning district only if Part 2 says so.

(Ord. 984, 6/14/1999, Art. V, §500)

§27-502. Home Occupations.

1. Purposes, Organization and Applicability of this Section. A home occupation is defined as a business that is conducted entirely within a dwelling unit, entirely by the members of the household residing in that unit and in a manner that is clearly incidental, accessory and subordinate to the unit's primary residential use. Most modern zoning ordinances regulate home occupations because of the deleterious effects that these businesses can have on their neighborhoods. A home occupation can congest its neighborhood's parking spaces and streets, generate intrusive amounts of noise, vibration, glare, electrical interference, odors and radio/television signal disruption, draw large trucks for delivery purposes, erect a disturbing number of signs, utilize unsightly outdoor storage areas and generally change the character of its neighborhood from residential to commercial. Many zoning ordinances attempt to minimize such damaging effects by designating all home occupations as special exceptions and requiring each to procure the approval of the Zoning Hearing Board which is to reject any such business that will adversely affect its neighborhood.
 - A. However, more and more home occupations are being created that have little or no deleterious effects on their neighborhoods. Many professionals now "telecommute" from home, draw no extra parking or traffic activity, generate no noise or other interference and have no signs. While home occupations that could have a significant effect on their neighborhoods clearly should still lie under the Zoning Hearing Board's jurisdiction, those that have little or no such effects should be excused from the paperwork, time and expense involved in a special exception application.
 - B. This Chapter attempts to establish such a system by dividing home occupations into two categories: minor impact home occupations (which will have little or no effect on their neighborhoods) and major impact home occupa-

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tions (which may have some effects on their neighborhoods). The Zoning Officer shall determine which of these categories a particular home occupation falls into according to the standards of subsection (2) below. If a particular home occupation is determined to be a minor impact home occupation according to these standards, then it may be established without any further approvals. However, if it is determined to be a major impact home occupation, then subsection (3) below requires that it must be approved by the Zoning Hearing Board as a special exception according to the rules of Part 3, "Special Exceptions and Conditional Uses." This Section applies to all home occupations within the Borough of Philipsburg, regardless of the zoning district in which they are located.

2. Distinguishing Minor Impact Home Occupations from Major Impact Home Occupations.
 - A. Any person who wishes to establish a home occupation within the Borough shall file an application for a home occupation with the Zoning Officer on a form supplied by the Borough. This application shall not be considered complete unless enough information is included on the form to enable the Zoning Officer to determine whether the proposed home occupation is a minor impact home occupation or a major impact home occupation according to the standards below.
 - B. After a complete application has been filed, the Zoning Officer shall have 15 days to determine the status of the proposed home occupation. When the Zoning Officer fails to make this determination within 15 days, then the proposed home occupation shall automatically be classified as a minor impact home occupation.
 - C. The Zoning Officer shall determine that a proposed home occupation would be a major impact home occupation unless it meets the standards below in which case it shall be classified as a minor impact home occupation and may be established without any further approvals.
 - (1) A minor impact home occupation shall receive and ship any goods, chattels, materials, supplies, or items of any kind exclusively in either a passenger vehicle that is owned by the resident and that makes no more than one such delivery trip per day or a parcel courier vehicle that stops at the dwelling unit no more than once per day.
 - (2) It shall use no equipment or appliances other than those that are customarily used in common residences or offices.
 - (3) If it is a tutoring or teaching service, then no more than four students shall be tutored or taught at the involved dwelling at any one moment.

- (4) A minor impact home occupation shall place no sign or other evidence of that occupation on the exterior of its building.
 - (5) A minor impact home occupation shall conduct no retail sales directly to customers on the premises unless it is over the mail, telephone or Internet.
 - (6) A minor impact home occupation shall use no more than 25% of the ground floor area of the involved dwelling unit (excluding garages).
 - (7) A minor impact home occupation shall have no exterior displays of goods and no interior displays of goods which can be seen from public right-of-ways.
 - (8) A minor impact home occupation shall store no materials or products outside the dwelling unit except in an enclosed structure which complies with the requirements of this Chapter.
 - (9) A minor impact home occupation shall create a volume of traffic and a demand for parking spaces that is no greater than would normally be expected in its neighborhood of Philipsburg.
 - (10) A minor impact home occupation shall use no pieces of equipment or processes that create noise, vibration, glare, fumes, odors, visual or audio television or radio signal interference or electrical interference which is detectable to normal senses in other residential units.
 - (11) Nursery schools, dancing schools, exercise or health centers, funeral homes, mortuaries, eating or drinking establishments, animal kennels, animal hospitals, veterinarian offices, boarding houses, medical or dental clinics or offices, transportation vehicle repair or rental facilities, theaters and any other business that does not meet the definition of home occupations given under subsection (1) above shall not be classified as minor impact home occupations.
- D. The Zoning Officer's determination on the matter, along with any materials that support this determination, shall be mailed to the applicant personally no later than the day after the determination is made.
 - E. The Zoning Officer's determination on this matter may be appealed to either the Zoning Hearing Board or the Centre County Court of Common Pleas.
 - F. There shall be no off-street parking space or loading berth requirements for minor impact home occupations beyond what is required for the involved dwelling unit.
3. Major Impact Home Occupations. If a proposed home occupation is determined to be a major impact home occupation by the Zoning Officer, then its proprietor must

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apply for a special exception use before the Zoning Hearing Board according to the provisions of Part 3, "Special Exceptions and Conditional Uses." Note that any off-street parking space or loading berth requirements for these occupations (beyond the requirements of the involved dwelling unit) shall be set by the Zoning Hearing Board at the involved hearing.

(Ord. 984, 6/14/1999, Art. V, §505)

§27-503. Fences, Walls and Other Screens.

1. Purpose. Fences, walls and other screens can provide many benefits both to the owner of the property on which they are situated and to the public at large. However, certain aspects of these structures must be limited in order to protect a community's appearance and public safety. This Section's purpose is to provide such limits.
2. Fence, Wall, and Other Screen Limitations. Fences, walls, and other screens may be erected in any yard subject to their zoning district's requirements, the limitations in the following table, and the controls of subsection (3) below. Note that heights should be measured from the existing ground elevation:

Regulation	Requirement	Exceptions
Maximum Height		Fences, walls, and other screens up to 10 feet in height may be approved as a special exception under the conditions of Article 3, "Special Exceptions and Conditional Uses."
In front yards	4 feet	
In all other yards	6 feet	
Minimum Setbacks For Non-Corner Lots		None
Front setback	3 feet	
All other setbacks	1.5 feet	
Minimum Setbacks For Corner Lots		None
Front setback	3 feet	
Side street setback	3 feet	
All other setbacks	1.5 feet	

Note: If both property owners agree, the fence can be put on property line. [A.O]

3. Other Fence, Wall, and Screen Regulations.
 - A. A fence, wall, or screen shall not be erected in a public or dedicated right-of-way.

- B. No fences, walls or screen except for a two-strand wire fence shall be constructed in the Borough's floodplain, as defined by the relevant Borough ordinances.
 - C. A fence, wall or screen shall not block the clear sight distance at street sections or driveways.
 - D. A fence, wall or screen shall not include barbs, thorns, other harmful projections or electric wires designed to shock unless it is approved by the Zoning Hearing Board as a special exception under the standards of Part 3, "Special Exceptions and Conditional Uses."
 - E. The finished side of fences, walls or screens shall always face any abutting streets or properties.
 - F. Fences, walls and screens shall be appropriate to the character and architectural concepts of their surroundings.
 - G. Fences, walls and screens shall not hinder the appropriate development, use or value of buildings on adjacent lots.
4. Zoning Permits. A fence, wall, or screen shall require a zoning permit, as described in §27-115, "Zoning Permits."
5. Required Fencing around Private Swimming Pools. In order to minimize the chances of small children and other persons drowning, all private swimming pools shall be enclosed by a fence, wall or screen 4 feet in height as measured from the existing ground elevation. This enclosure shall be able to be locked to prevent accidental or unauthorized entry and shall contain open areas no larger than would be necessary to permit the entry through the enclosure of a ball with a diameter of 4 inches. The height requirement for fences enclosing above-ground pools may be met via a fence attached to the pool wall, in which the lowest ground elevation at any point for pool and fence combined is 4 feet.

(Ord. 984, 6/14/1999, Art. V, §510; as amended by A.O.)

§27-504. Radio and/or Television Antennas.

1. Purpose and Applicability of this Section. Radio and television antennas are a valuable and necessary component of the modern American community. However, the size and location of these items must be limited in the interests of the community's appearance, light, open space and public safety. The purpose of this Section is to limit radio and television antennas while still allowing them to perform their functions. This Section applies to all radio and/or television antennas that are not part of a cellular site (i.e., cell site or radio link), cellular switching office, commercial radio station or commercial television station.

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2. Radio and/or Television Antennas as Special Exceptions. If a radio and/or television antenna meets the size, and location requirements given under subsection (3) below, then it is a permitted use in all zoning districts. Otherwise, it may be permitted in any district only as a special exception, subject to the requirements of Part 3, "Special Exceptions and Conditional Uses."
3. Limitations on the Size and Locations of Radio and/or Television Antennas. Unless a radio and/or television antenna is approved by the Zoning Hearing Board as a special exception under the requirements of Part 3 ("Special Exceptions and Conditional Uses"), it shall follow the size and location restrictions in the Table below:

Regulation	Requirement
Minimum Setbacks From Lot Lines	
For front yards on all lots	15 feet
For side street yards on corner lots	15 feet
For all other yards	6 feet
Distance That Equipment Which Is Mounted On A Roof Must Be From The Edge Of That Roof	
For all roof sides	6 feet
Maximum Heights	Equipment must obey the maximum building height of the district in which it is located. If it is mounted on a roof, it may rise only 10 feet from this roof.
Maximum Diameters For Satellite Dishes	4 feet

(Ord. 984, 6/14/1999, Art. V, §515)

§27-505. Required Buffers.

1. Purpose. Throughout this Chapter, some land uses are required to be "buffered" against other lots. This is required so that the unpleasant qualities of the one use shall not damage the character or value of the other. This Section provides the specific details of this required buffering.
2. Zoning Officer's Role. At the time that a developer who intends to construct a use that this Chapter requires to be buffered applies for a zoning permit, the Zoning Officer of the Borough of Philipsburg shall determine if the developer intends to install a living fence or a non-living fence (options 1 and 2 of subsection (3) below) and if the "maximum height" limitations of §27-503(2)("Fences, Walls and Other Screens") are too strict to allow for proper buffering. If the Zoning Officer finds

that the answer to both of these questions is "yes," then he or she shall have the authority to increase the "maximum height" limitations of §27-503(2) by no more than 100% for the involved property. At the same time, the Zoning Officer shall determine if the developer intends to install a natural landscape buffer (option 3 of subsection (3) below) and if the developer's proposed buffer is not long enough or not wide enough to protect the value of the adjacent properties. If the Zoning Officer determines that the answer to both of these questions is "yes," then he or she shall have the authority to require an increase in the size of the natural landscape buffer area.

3. Buffer/Screen Options. Required buffers shall be in one of the following three forms:
 - A. A living fence that adheres to the requirements of subsection (4) of this Section.
 - B. A non-living fence, wall, or screen that adheres to the requirements of subsection (5) of this Section.
 - C. A natural landscape that is sufficiently wide or hilly enough to hide the principal use of the lot that is required to be screened, and that adheres to the requirements of subsection (6) of this Section.
4. Provisions for Required Living Fences.
 - A. Required living fences shall provide a year-round screen. In order to insure that this requirement will be met, living fences shall be composed of a mix of plants that is at least 75% evergreen.
 - B. Required living fences shall be in accordance with all of the provisions of §27-503 of this Part ("Fences, Walls and Other Screens"), except that they may be subject to the provisions of subsection (2) of this Section.
 - C. Required living fences shall be either no less than 4 feet wide or no less than the width necessary to be opaque, whichever is more.
 - D. Required living fences shall be maintained so that they follow the requirements of this section and continue to provide the required level of screening.
 - E. All plantings should be situated so that their root systems shall not encroach on underground utilities.
 - F. The owner of the property whose principal use is required to be screened shall be responsible for the installation and upkeep of his or her living fence. This includes the replacement of dead plant material and the removal of all debris and tall grass.
5. Provisions for Required Non-Living Fences.

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- A. Required non-living fences shall be maintained so that they follow these requirements, and provide a year-round, attractive screen. The owner of the property whose principal use is required to be buffered shall be responsible for the installation and upkeep of his or her fence.
 - B. Required non-living fences shall be in accordance with the provisions of §27-503 of this Chapter ("Fences, Walls and Other Screens"), except that they shall ignore the required "maximum solid to open portion ratio" and they may be subject to the provisions of subsection (2) of this Section.
 - C. Required non-living fences shall be opaque.
6. Provisions for Natural Landscape Buffers.
- A. Required natural landscape buffers shall be wide and long enough to hide the use that is required to buffer itself.
 - B. Required natural landscape buffers shall be delineated and protected from future development by an easement, deed restriction, covenant or similar restriction.
 - C. No structure, parking area, loading area, storage area or vehicular circulation area shall be located in this buffer area.
 - D. All portions of a landscape buffer shall be attractive and maintained in good condition.

(Ord. 984, 6/14/1999, Art. V, §520)

§27-506. Off-Street Parking Space and Loading Berth Design.

1. Purpose, Organization and Applicability of this Section. Section 212, "Land Uses, Off-Street Parking and Off-Street Loading", stipulates how many off-street parking spaces and loading berths must be provided by each land use within Philipsburg. However, simply requiring a number of parking spaces or loading berths is not enough to guarantee adequate access to the Borough's homes, businesses, and institutions. These spaces and berths need to be properly designed. The purpose of this Section is to meet this concern by mandating that each required off-street parking space and loading berth meet certain safety and aesthetics criteria. Subsection (2) of this Section provides the design criteria for off-street parking spaces, while subsection (3) provides the same for off-street loading berths. The requirements of this Section apply to each off-street parking space and loading berth within the Borough that is used to satisfy the requirements of §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."

2. Requirements for Off-Street Parking Space. Each required off-street parking space shall meet the following standards.
 - A. Location. Required off-street parking spaces shall be located on the same lot as the structure or use that they serve unless a parking plan to the contrary is approved by the Zoning Hearing Board in accordance with §27-507, "Off-Street Parking and Loading Plans."
 - B. Size. Perpendicular parking spaces shall be no smaller than 9 feet in width by 18 feet in length. Parallel parking spaces shall be no smaller than 8 feet in width by 23 feet in length. Handicapped parking spaces shall be no smaller than 13 feet in width by 20 feet in length. All of these measurements shall exclude curbs and maneuvering space.
 - C. Design. Each parking space shall open directly onto an aisle or driveway with a width of no less than 15 feet. All access ways shall be provided in accordance with the Pennsylvania Department of Transportation and Borough regulations and shall be designed so that parking patrons may safely exit to and enter from the street.
 - D. Surfacing. With the exception of those that serve residential buildings with no more than two dwellings, all parking areas shall be graded and either stabilized or paved. Paving may consist of concrete, asphalt, grouted brick, paving blocks or a similar material.
 - E. Screening. Open-space parking areas for 50 automobiles or more shall be interspersed with the landscape or other appropriate land forms in the area.
 - F. Striping. Paved parking areas with more than 15 parking spaces shall be striped to outline each parking space and aisle. A durable paint shall be used and these stripes shall be maintained properly.
 - G. Lighting. Any artificial lighting used to illuminate off-street parking areas and driveways shall be directed away from residential properties and public streets so as to not interfere with these uses.
3. Requirements for Off-Street Loading Berths. Each required off-street loading berth shall meet the following standards:
 - A. Location. Required loading berths shall be located on the same lot as the use that they serve. No loading berth shall be located in a front yard. No loading berth shall be situated so that loading or unloading vehicles may project into a traffic lane.
 - B. Size. A required off-street loading berth space shall be no smaller than 14 feet in width by 55 feet in length, exclusive of any curbs, aisles or maneuvering space. The length may be reduced to 45 feet if the applicant certifies in

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writing that no tractor-trailer trucks will use the berth. Required loading berths shall have a vertical clearance of at least 16 feet.

- C. Access. Each required off-street loading berth shall have an appropriate access and exit that will minimize interference with traffic movement. Such accesses and exits should be encouraged to be by way of an alley, rear entry or service street to the rear of the building.
- D. Surfacing. All off-street loading berths shall have a compacted gravel base not less than 7 inches thick and shall be surfaced with an all-weather material.
- E. Vehicle Repair and Servicing. No motor vehicle repair work shall be performed in an off-street loading berth.
- F. Parking. Loading berths shall not be used to satisfy off-street parking requirements.
- G. Screening. All required off-street loading berths that are adjacent to a residential district shall be buffered against that district according to the standards of §27-505, "Required Buffers."

(Ord. 984, 6/14/1999, Art. V, §530)

§27-507. Off-Street Parking and Loading Plans.

1. Purpose, Organization and Applicability of this Section. Section 27-212, "Land Uses, Off-Street Parking, and Off-Street Loading," stipulates how many off-street parking spaces and loading berths each land use within the Borough of Philipsburg must provide. However, simply requiring a number of parking spaces or loading berths ignores many important considerations. Parking and loading requirements should be flexible and responsive to situations involving shared parking, adequate off-lot parking, different transportation modes and site constraints. Some land uses should not be held to the requirements of §27-212 because they share parking spaces with other businesses who need parking at differing times, they use parking spaces on other lots that are nearby, a significant number of their clients walk or ride bicycles to these uses or existing site constraints prohibit following these requirements. The purpose of this Section is to meet this concern by allowing for reductions in these requirements if they are necessary and justified. Subsection (2) of this Section stipulates the conditions under which one or more land uses may obtain an approved parking plan that reduces the off-street parking requirements of §27-212(3) stipulates the conditions under which one or more land uses may obtain an approved loading plan that reduces the off-street loading requirements of §27-212. Applications for a parking or loading plan shall be made to the Zoning Hearing Board as a special exception by way of the requirements of Part 3, "Special Exceptions and Conditional Uses." This Section ap-

plies to all land uses regulated by §27-212 who wish to apply for one of these two types of plans.

2. Off-Street Parking Plans. The Zoning Hearing Board may grant a special exception (by way of) the requirements of Part 3, "Special Exceptions and Conditional Uses") to an off-street parking plan that reduces the number of off-street parking spaces required for a land use by the table in §27-212, "Land Uses, Off-Street Parking and Off-Street Loading," so long as that plan takes one of the following four forms:
 - A. Two or more uses may share a common parking area that provides enough parking spaces to meet the requirements of each use individually if the applicants prove that each involved use will require the common parking area largely when the other involved uses will not require it, that each involved use is located within 350 feet of the common parking area, that each involved use is connected to the common parking area by safe pedestrian means of access, and that an adequate guarantee exists that the common parking area will remain available to all of the involved uses over their lifetimes. This form of a parking agreement shall not be available to shopping centers or residential buildings with more than one dwelling. However, it is especially recommended for places of worship (which usually require parking on weekends and after 5 p.m. on weekdays) and non-retail office buildings (which usually require parking between 9 a.m. and 5 p.m. on weekdays). Any changes made to the sharing of the common parking area shall require a new review by the Zoning Hearing Board, and may result in an addition of required parking spaces.
 - B. The Zoning Hearing Board may approve a plan for providing some or all of a land use's required off-street parking spaces on a different lot than that which the use is situated on if an adequate guarantee exists that the parking will remain available to the involved use over its lifetime and the off-site parking spaces are located within 350 feet of the associated use and are connected by a safe pedestrian walkway.
 - C. If a land use can prove that over 25% of the traffic that it generates will be pedestrian, the Zoning Hearing Board may approve a plan that proportionately reduces the number of off-street parking spaces required by §27-212. Furthermore, if a land use can prove that over 25% of the traffic that it generates will use a bicycle to get there, the Zoning Hearing Board may approve a plan that proportionately reduces the number of off-street parking spaces required by §27-212 and provides enough bike rack space to handle the anticipated number of cyclists.
 - D. The Zoning Hearing Board may approve an off-street parking plan that reduces the number of off-street parking spaces required for a land use by §27-212 if the applicant can prove that existing site constraints bar any reasonable attempt to follow this requirement and the traffic that will be forced to

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find another place to park will not deny another land use the use of its needed parking spaces.

3. Off-Street Loading Plans. The Zoning Hearing Board may grant a special exception (by way of) the requirements of Part 3, "Special Exceptions and Conditional Uses") to a loading plan that reduces the number of off-street loading berths required for a land use by the table in §27-212 if the applicant can prove that existing site constraints bar any reasonable attempt to follow this requirement.

(Ord. 984, 6/14/1999, Art. V. §535)

§27-508. No-Impact Home-Based Business.

A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements:

- A. The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- B. The business shall employ no employees other than family members residing in the dwelling.
- C. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- D. There shall be no outside appearance of a business use including, but not limited to, parking, signs or lights.
- E. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- F. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- G. The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.
- H. The business may not involve any illegal activity.

(Ord. 984, 6/14/1999; as added by A.O.)

PART 6

SIGNS

§27-601. Purposes, Organization and Applicability of this Part.

1. The purposes of this Part are the following: to encourage the effective use of signs as a means of communication in the Borough of Philipsburg, to maintain and enhance the Borough's aesthetic environment and its ability to attract sources of economic development and growth, to improve pedestrian and traffic safety, to minimize the possible adverse effect of signs on nearby public and private property and to enable the fair and consistent enforcement of this Part's provisions.
2. Section 27-602, "Computations," explains how to calculate sign areas, sign heights and maximum total permitted sign areas for zone lots. These items are used throughout this Part and thus, §27-602 applies to all regulated signs. Section 27-603, "Signs Allowed on Private Property With and Without Permits," addresses and exclusively applies to regulated signs on private property: stating what kinds of signs are allowed in each zoning district, when zoning and occupancy permits are needed for a sign, how much total permitted sign area each zone lot may have, how many individual signs each zone lot may have, what dimensions each sign may be, where each sign may be located on its lot and what characteristics each sign may have.
3. Section 27-604, "Design, Construction and Maintenance", sets design, construction and maintenance requirements for all regulated signs. Section 27-605, "Signs in the Public Right-of-Way," addresses and exclusively applies to regulated signs in public right-of-ways: stating what kinds of signs are allowed there, when signs may be forfeited to the Borough and when occupancy permits are required for signs in this location. Section 27-606, "Signs that are Exempt from the Requirements of this Part," lists which signs are not regulated by this article. Section 27-607, Prohibited Signs, explains what kind of signs are prohibited from the Borough. Section 27-608, "Occupancy Permits for Temporary Signs on Private Property," provides some rules for temporary signs on private property that §27-603 requires to have occupancy permits. Section 27-609, "Abandoned Signs," explains when abandoned signs must be removed.
4. A nonconforming sign is defined as a sign that was legally established before the effective date of this Chapter's enactment (see §27-106, "Effective Date of This Chapter's Enactment") and does not conform the requirements of §27-602 ("Computations"), §27-603 ("Signs Allowed on Private Property With and Without Permits"), §27-605 ("Signs in the Public Right-of-Way") or §27-607("Prohibited Signs"). Section 27-610, "Nonconforming Signs" addresses and exclusively applies to nonconforming signs: explaining how they are to receive nonconforming status, how they are to be maintained, how they are to be brought into conformance and when they must be removed.

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5. This Part applies to all signs located in the Borough of Philipsburg.

(Ord. 984, 6/14/1999, Art. VI, §600)

§27-602. Computations.

1. How to Compute the Sign Area of Individual Signs. The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof that will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing or decorative fence or wall when such fence or wall otherwise meets the provisions of this Chapter and is clearly incidental to the display itself.
2. How to Compute the Sign Area of Multi-faced Signs. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.
3. How to Compute Sign Height. The height of a sign shall be computed as the distance from the base of the sign (and its supporting structure) at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of existing grade prior to construction or the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zone lot, whichever is lower.
4. How to Compute the Maximum Total Permitted Sign Area for a Zone Lot. The permitted sum of the area of all individual signs on a zone lot shall be computed by applying the formula contained in Table "B" of §27-603 ("Signs Allowed on Private Property With and Without Permits") to the lot frontage, building frontage, or wall area, as appropriate, for the zoning district in which the lot is located. Lots fronting on two or more streets are allowed the permitted sign area for each street frontage. However, the total sign area that is oriented toward a particular street may not exceed the portion of the lot's total sign area allocation that is derived from the lot, building, or wall area frontage on that street.

(Ord. 984, 6/14/1999, Art. VI, §605)

§27-603. Signs Allowed on Private Property With and Without Permits.

Signs are allowed on private property in the Borough of Philipsburg in accordance with, and only in accordance with, Table "A" below. If the letter "P" appears for a sign type in a column of this table, such a sign is allowed on private property in the zoning district represented by that column without any of the permits mentioned in the paragraph below. If the letter "S" appears for a sign type in a column of this table, such a sign is allowed on private property in the zoning district represented by that column only after the permits required in the paragraph below have been obtained for the sign. If the letter "N" appears for a sign type in a column of this table, such a sign is not allowed on private property in the zoning district represented by that column. If Table "A" requires a sign of the "temporary" sign type to have permits in a particular zoning district, an occupancy permit must be obtained for that sign before it may be erected. If Table "A" requires a sign of any other sign type to have permits in a particular district, a zoning permit must be obtained for that sign before it may be erected, and an occupancy permit must be obtained for that sign immediately after it is erected. Section 27-115 (Zoning Permits) explains how to obtain a zoning permit, while §27-116 (Occupancy Permits) explains how to get an occupancy permit.

Table A, Permitted Signs on Private Property

Sign Type	R1A	R1B	R2	R3	C1	C2	I	RC
FREESTANDING								
Residential ¹	P	P	P	P	P	N	N	N
Other	N	S	S	N	S	S	S	S
Incidental ²	N	P	P	P	P	P	P	P
BUILDING								
Banner	N	N	N	N	S	S	S	N
Building Marker ³	P	P	P	P	P	P	P	P
Canopy	N	S	N	N	S	S	S	N
Identification ⁴	P	P	P	P	P	P	P	P
Incidental ⁵	P	P	P	P	P	P	P	
Marquee	N	N	N	N	S	S	S	N
Projecting	N	N	N	N	S	S	S	N
Residential ⁶	P	P	P	P	P	N	N	N
Roof	N	N	N	N	S	N	N	N
Roof, Integral	N	S	N	N	S	S	S	N
Suspended	N	N	N	N	S	S	S	N

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Table A, Permitted Signs on Private Property

Sign Type	R1A	R1B	R2	R3	C1	C2	I	RC
Temporary ⁷	N	S	S	N	S	S	S	S
Wall	N	S	N	N	S	S	S	S
Window	N	S	N	N	S	S	S	N
MISCELLANEOUS								
Banner ⁸	N	N	N	N	S	S	S	N
Flag ⁹	P	P	P	P	P	P	P	P
Portable	N	N	N	N	N	S	N	N

¹ Commercial messages are allowed on these signs except for a commercial message drawing attention to an activity legally offered on the premises.

² No commercial messages of any kind are allowed on these signs unless the involved message is not legible from any location off the involved zone lot.

³ This may include only the building's name, the building's date of construction, or historical data on a historic site. Such signs must be cut or etched into masonry, bronze, or similar material.

⁴ Only the address and name of the occupant is allowed on such a sign.

⁵ No commercial messages are allowed on these signs if the messages are legible from a location off of the involved zone lot.

⁶ No commercial messages are allowed on such a sign except for one that draws attention to an activity legally offered on the premises.

⁷ A temporary sign on private property may stand for no more than 30 days, and must adhere to the requirements of Section 635, "Occupancy Permits for Temporary Signs on Private Property." A temporary sign in a public right of way must have an occupancy permit, may stand for no more than 60 days, and must adhere to the requirements of Section 620, "Signs in the Public Right-of-Way."

⁸ No commercial messages are allowed on banners if the messages are legible from a location off of the involved zone lot.

⁹ This category includes the flags of the United States, the states themselves, local governments, foreign nations having diplomatic relations with the United States, institutions, businesses, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction — provided that the involved flag shall not exceed 60 square feet in area and shall not be flown from a pole that is more than 40 feet tall. Any flag that does not meet these requirements shall be considered a banner sign by this Chapter.

Any sign designated by an "S" or "P" in Table "A" shall be allowed on private property only if:

- A. The sum of the area of all building and freestanding signs on the zone lot conforms with the maximum permitted sign area as determined by the formula for the zoning district in which the lot is located as specified in Table "B" below;

Table B, Maximum Total Sign Area Per Zone Lot

	R1A	R1B	R2	R3	C1	C2	I	RC
The maximum total area of all signs on a zone lot — except incidental signs, building marker signs, identification signs, and flags ¹⁶ shall not exceed the lesser of the following:								
total square feet	10	150	100	10	800	1,000	2,000	100
percentage of the ground floor area of the zone lot's principal building	NA	4%	4%	NA	10%	8%	2%	NA
square feet of signage per linear foot of street frontage	NA	2.0	2.0	NA	6.0	4.0	NA	.5

- B. The size, location, and number of signs on the lot conform with the requirements of Table "C" and Table "D" below, which establish permitted sign dimensions by sign type;

Table C, Number, Dimensions and Locations of Signs

Sign Type	R1A	R1B	R2	R3	C1	C2	I	RC
Individual signs shall not exceed the applicable maximum number, dimensions, or setbacks shown on this table and on TABLE "D."								
FREESTANDING								
Area (in sq. ft.)	10	50	12	10	50	160	80	40
Height (in feet)	5	25	5	5	25	36	25	12
Setback (in feet) from all lot lines ¹	2	5	2	2	2	10	2	5
Number permitted								
per zone lot	1	1	1	1	1	1	1	1
per foot of street frontage ²	per 10	per 10	per 10	per 10	per 10	per 10	per 10	per 10
BUILDING								
Area (max. sq. ft.)	2	NA	2	2	NA	NA	NA	10
Wall area (percent) ³	NA	10%	NA	NA	10%	20%	5%	NA

¹⁶ Note: This category includes the flags of the United States, the states themselves, local governments, foreign nations having diplomatic relations with the United States, institutions, businesses, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction — provided that the involved flag shall not exceed 60 square feet in area and shall not be flown from a pole that is more than 40 feet tall. Any flag that does not meet these requirements shall be considered a banner sign by this Chapter.

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¹ In addition to the setback requirements of this table, no sign shall be located closer than 20 feet to an intersection between public and/or private roads and/or driveways unless that sign allows a clear view between the intersecting roads and/or driveways at all heights between 3 and 10 feet.

² Lots fronting on two or more streets are allowed the permitted signage for each street frontage. However, this signage cannot be accumulated and used on one street in excess of that allowed for lots with only one street frontage.

³ The percentage figure here shall be interpreted as a maximum percentage of the area of the wall of which such a sign is a part or to which each sign is most nearly parallel.

Table D, Number and Dimensions of Certain Individual Signs by Sign Type

Sign Type	Number Allowed	Maximum Sign Area	Vertical Clearance from Sidewalk, Private Drive; or Parking	Vertical Clearance from Public Street
No sign shall exceed any applicable maximum numbers or dimensions shown on this table. Likewise, no sign shall encroach on any applicable minimum clearances shown on this table.				
FREESTANDING				
Residential, Other, and Incidental	see Table "C"	see Table "C"	NA	NA
BUILDING				
Banner	NA	NA	9 ft.	12ft.
Building Marker	1 per building	4 sq. ft.	NA	NA
Canopy	1 per building	25% of the canopy's vertical surface	9 ft.	12 ft.
Identification	1 per building	NA	NA	NA
Incidental	NA	NA	NA	NA
Marquee	1 per building	NA	9 ft.	12 ft.
Projecting	1 per building	40 sq. ft.	9 ft.	12ft.
Residential	see Table "C"	NA	NA	NA
Roof	1 per principal building	NA	NA	NA
Roof, Integral	2 per principal building	NA	NA	NA
Suspended	1 per entrance	NA	9 ft.	NA
Temporary	see Section 635	NA	NA	NA
Wall	NA	NA	NA	NA
Window	NA	25% of the window's total area	NA	NA

Table D, Number and Dimensions of Certain Individual Signs by Sign Type

Sign Type	Number Allowed	Maximum Sign Area	Vertical Clearance from Sidewalk, Private Drive; or Parking	Vertical Clearance from Public Street
MISCELLANEOUS				
Banner	NA	NA	9 ft.	12 ft.
Flag	NA	60 sq. ft.	9 ft.	12 ft.
Portable	1 where allowed	20 sq. ft.	NA	NA

- C. The size location, and number of signs on the lot conform with any additional limitations listed in Table "A" above.
- D. The characteristics of the sign conform with the limitations of Table "E" below and with any additional limitations listed in Table "A."

Table E, Permitted Sign Characteristics by District

Sign Type	R1							
	R1A	B	R2	R3	C1	C2	I	RC
Animation	N	N	N	N	P	N	N	N
Changeable Copy	N	P	N	N	P	P	P	N
Internal Illumination	N	P	N	N	P	P	P	N
External Illumination	N	P	P	N	P	P	P	P
Exposed Bulbs or Neon Illumination	N	N	N	N	P	P	P	N

All permitted signs must follow the requirements of §27-604, Design, Construction, and Maintenance.

(Ord. 984, 6/14/1999, Art. VI, §610)

§27-604. Design, Construction and Maintenance.

1. Except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this Chapter, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame or other structural element. Furthermore, all signs shall be maintained in good structural condition, in compliance with all applicable building and electrical codes.

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2. A sign that conforms with the requirements of §27-602 ("Computations"), §27-603 ("Signs Allowed on Private Property With and Without Permits"), §27-605 ("Signs in the Public Right-of-Way") and §27-607 ("Prohibited Signs") may be repaired, repainted, removed for repair and then re-mounted or replaced with an identical sign without any permits. Note that this Chapter considers replacing a sign with a non-identical sign to be the same as erecting a new sign. Thus, such a replacement may or may not require a zoning and/or an occupancy permit, depending on the type and location of the involved sign.

(Ord. 984, 6/14/1999, Art. VI, §615)

§27-605. Signs in the Public Right-of-Way.

1. Sign Types Allowed in Public Right-of-Ways.
 - A. The following kinds of permanent signs are allowed in public right-of-ways: public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and/or direct or regulate pedestrian or vehicular traffic; bus stop signs erected by a public transit company; informational signs of a public utility regarding its poles, lines, pipes, or other facilities and awning, projecting and suspended signs projecting over a public right-of-way in conformity with the requirements of Table "A."
 - B. Temporary signs for which an occupancy permit has been issued according to the requirements of subsection (3) below are allowed in public right-of-ways only if they contain no commercial messages and are no more than two square feet in area.
 - C. Emergency warning signs are allowed in public right-of-ways if they are erected by a governmental agency, a public utility company or a contractor doing authorized or permitted work within the public right-of-way.
2. Forfeiture of Signs Located in Public Right-of-Ways. Any sign installed or placed on public property, except in conformance with the requirements of this Part, shall be forfeited to the Borough and subject to confiscation. The Borough shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of the sign.
3. Occupancy Permits for Temporary Signs in the Public Right-of-Way. All temporary signs that are to be located in the public right-of-way must obtain an occupancy permit by way of the requirements of §27-116, "Occupancy Permits." These permits shall be issued for such signs in accordance with the provisions below.
 - A. An occupancy permit issued for a temporary sign in a public right-of-way shall be valid for 60 days, after which the sign must be removed. No more than three permits for temporary signs shall be issued to an applicant in

any calendar year. For any sign containing the name of a political candidate, the candidate shall be deemed to be the applicant.

- B. Up to 20 identical temporary signs may be erected in a public right-of-way under a single occupancy permit.
- C. In addition to any fees for the involved occupancy permit, the applicant shall post a bond of \$25 for each permitted temporary sign in a public right-of-way. This bond shall be held to ensure the removal of the sign and shall be refundable upon its removal. The bond on any such sign that is not removed within 75 days of the issuance of the involved occupancy permit shall be forfeited to the Borough, and shall be used to recover the costs of removing and disposing of the sign.

(Ord. 984, 6/14/1999, Art. VI, §620)

§27-606. Signs That are Exempt from the Requirements of This Part.

The following kinds of signs are exempt from the requirements of this Part:

- A. Any public notice or warning required by a valid and applicable Federal, State or local law, regulation or ordinance.
- B. Any sign that is inside a building, not attached to a window or door or not legible from a distance of more than 3 feet beyond the lot line of the involved zone lot or parcel.
- C. Works of art that do not include a commercial message.
- D. Signs on the scoreboard or outfield fence of an athletic field.
- E. Holiday lights and decorations with no commercial message.
- F. Traffic control signs on private property, such as "STOP," "YIELD" and similar signs, the face of which meet the Pennsylvania Department of Transportation standards and which contain no commercial message of any sort.

(Ord. 984, 6/14/1999, Art. VI, §625)

§27-607. Prohibited Signs.

All signs that are not expressly permitted under this Chapter or exempted from its regulations by §27-606 (Signs that are Exempt from the Requirements of this Part) are prohibited from the Borough of Philipsburg. Such signs include, but are not limited to,

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beacons, pennants, strings of lights that are not permanently mounted to a rigid background (except those exempted under §27-606) inflatable signs and tethered balloons.

(Ord. 984, 6/14/1999, Art. VI, §630)

§27-608. Occupancy Permits for Temporary Signs on Private Property.

Where Table "A" of §27-603 ("Signs Allowed on Private Property With and Without Permits") requires occupancy permits to be obtained for temporary signs on private property, these permits shall be obtained in accordance with the provisions below:

- A. Terms. An occupancy permit for a temporary sign on private property shall be valid for 30 days, after which the sign must be removed.
- B. The Maximum Number of Occupancy Permits for Temporary Signs. Only three occupancy permits for temporary signs on private property shall be issued to the same applicant on the same zone lot in any calendar year.
- C. The Requirements of §27-603. All temporary signs on private property are subject to the requirements of §27-603, "Signs Allowed on Private Property With and Without Permits."

(Ord. 984, 6/14/1999, Art. VI, §635)

§27-609. Abandoned Signs.

If a conforming use has been discontinued for a total of 12 months within an 18 month period, then all signs that are related to that use, as well as any structures that support these signs shall be known as "abandoned signs." Likewise, if a nonconforming use has been abandoned as described in §27-117(4)(D), then all signs that are related to that use as well as any structures that support these signs shall be known as "abandoned signs." All abandoned signs shall be removed at the expense of their owners. If such a sign is not removed, the Zoning Officer shall enforce the requirements of this section by way of the procedure given in §27-119, "Enforcement."

(Ord. 984, 6/14/1999, Art. VI, §640)

§27-610. Nonconforming Signs.

1. Applicability. The requirements of this section only apply to nonconforming signs. A nonconforming sign is defined as a sign that was legally established before the effective date of this Chapter's enactment (see §27-106, "Effective Date of This Chapter's Enactment") and does not conform the requirements of §27-602 ("Computations"), §27-603 ("Signs Allowed on Private Property With and Without Permits"), §27-605 ("Signs in the Public Right-of-Way") or §27-607("Prohibited

Signs"). Because nonconforming signs are not illegal, they have a right to temporarily remain in place and to be maintained. However, they must adhere to the requirements of this Section.

2. **Phasing Out Nonconforming Signs.** So long as it does not threaten the public health or welfare, a nonconforming sign may temporarily maintain its nonconforming characteristic or characteristics. However, all nonconforming signs that are not temporary shall be brought into conformance with the requirements of §§27-602, 27-603, 27-605 27-607 within 10 years of the effective date of this Chapter's enactment (see §27-106, "Effective Date of This Chapter's Enactment"). All nonconforming temporary signs shall be brought into conformance with the requirements of §§27-602, 27-603, 27-605 and 27-607 within 60 days of the effective date of this Chapter's enactment (see §27-106, "Effective Date of This Chapter's Enactment").
3. **Nonconforming Status.** The following rules apply to or concern all nonconforming sign:.
 - A. The Zoning Officer shall keep and maintain a list of all nonconforming signs that exist in the Borough on the effective date of this Chapter's enactment (see §27-106, "Effective Date of This Chapter's Enactment") and on the effective dates of any relevant amendments to either this Chapter or its map.
 - B. The owner of a nonconforming sign may obtain a "certificate of nonconformity" from the Borough's Zoning Officer. This certificate shall state that the sign may continue to be used until a date that is 60 days from the effective date of this Chapter's enactment (see §27-106) in the case of temporary signs or a date that is 10 years from the effective date of this Chapter's enactment in the case of non-temporary signs.
 - C. Aggrieved parties and the involved landowner may both appeal the Zoning Officer's determination of whether or not a sign is nonconforming according to the rules of §27-122, "Appealing the Determination of a Municipal Officer."
 - D. Any sign that was illegally erected or painted under a previous zoning ordinance or land use regulation shall remain illegal under this Chapter, even if it conforms to this Chapter's regulations.
 - E. Any sign that becomes a nonconforming sign due to an amendment made after the effective date of this Chapter's enactment shall be subject to the regulations of this Section.
4. **Maintaining Nonconforming Signs.** The following rules apply to all nonconforming signs.
 - A. If any nonconforming sign deteriorates to an unsightly or hazardous condition, the owner of that sign shall repair, repaint, remove, or replace it. If the

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Borough Zoning Officer finds that a such a sign has not been repaired, repainted, removed or replaced, he or she shall enforce this requirement by way of the procedures given in §27-119, "Enforcement."

- B. A nonconforming sign may be repaired, repainted or removed for repair and then re-mounted without obtaining any zoning or occupancy permits.
5. Replacing Nonconforming Signs.
- A. Within the periods established under subsection (2) above, a nonconforming sign may be replaced with an identical nonconforming sign if the use that the sign relates to has not changed since the original sign was constructed or painted and has not been discontinued for a total of 12 months within an 18 month period or abandoned as described in §27-117(4)(D). Otherwise, the nonconforming sign may only be replaced with a new, conforming sign.
 - B. Replacing a temporary nonconforming sign with an identical temporary nonconforming sign does not require any permits. However, replacing a non-temporary, nonconforming sign with an identical nontemporary, nonconforming sign requires both a zoning permit and an occupancy permit. §27-115 ("Zoning Permits") explains how to obtain a zoning permit, while §27-116 ("Occupancy Permits") explains how to get an occupancy permit. Note that this Chapter considers replacing a nonconforming sign with a non-identical sign to be the same as erecting a new sign. Thus, such a replacement may or may not require a zoning and/or an occupancy permit, depending on the type and location of the involved sign.
6. Enlarging, Relocating or Altering Nonconforming Signs.
- A. A nonconforming sign shall not be enlarged or relocated within the Borough.
 - B. A nonconforming sign shall not be altered in any aspect except to make safety improvements, to keep the sign maintained in accordance with the requirements of this Section or other Borough ordinances or to bring the sign into conformance with the requirements of this Chapter.
7. Bringing a Nonconforming Sign into Conformance. If a nonconforming sign is altered so that it becomes a conforming sign, it shall not be subsequently altered back to a nonconforming state. Likewise, if a nonconforming sign is replaced with a conforming sign, that conforming sign shall not be subsequently replaced with another nonconforming sign.
8. Abandoned Nonconforming Signs. If a conforming use has been discontinued for a total of 12 months within an 18 month period, then all nonconforming signs that are related to that use as well as any structures that support these signs shall be known as "abandoned nonconforming signs." Likewise, if a nonconforming use has been abandoned as described in §27-117(4)(D) then all nonconforming signs that are related to that use as well as any structures that support these signs shall be

known as "abandoned nonconforming signs." All abandoned nonconforming signs shall be removed at the expense of their owners. If such a sign is not removed, the Zoning Officer shall enforce this requirement by way of the procedures given in §27-119, "Enforcement."

(Ord. 984, 6/14/1999, Art. VI, §645)

§27-611. Permits for Signs Over Streets or Sidewalks.

1. Compliance Required. Hereafter it shall be unlawful to erect, construct or maintain over, across or upon any sidewalk or driveway or any highway of the Borough of Philipsburg any sign or other device for advertising or other purposes without first complying with the terms of this Section. This does not apply to temporary signs.
2. Application for Permit; Issuance. Before any sign or other device for advertising or other purposes shall be erected within the Borough of Philipsburg, application shall be made to the Zoning and Code Enforcement Officer and UCC, who may grant or refuse the permission requested as deemed consistent with the public interest, welfare and safety. If granted, a permit may be issued by the Zoning and Code Enforcement Officer, the erection to take place subject to such conditions as to fastening and securing the sign and safeguarding the public as may be requested by such Officer
3. Public Liability Insurance. All property owners or tenants hereafter erecting or maintaining any such sign or other device shall carry, for the protection of the Borough, a general public liability insurance policy with some company of recognized financial standing and shall exhibit the same to the Zoning Officer and file with him a copy of same, annually or as often as may be demanded. In event of failure to so insure and maintain a policy in force, any permit outstanding may be forthwith revoked and the permittee forthwith directed to remove the sign or other device.
4. Annual Inspection; Removal or Remedy of Unsafe Signs. Council may, by motion, annually direct the inspection of all signs by such employee of the Borough as they may direct. Any sign or other device found not to be in a safe condition may be directed to be either properly secured and fastened or removed within a period of 30 days.
5. Penalty for Violation. Any person, firm or corporation who shall violate any provision of this Section shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Section shall continue shall constitute a separate offense.
6. Borough May Remove Certain Signs at Expense of Property Owner or Tenant. Where a property owner or tenant fails to remove any sign or other device when so

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directed or where there has been an erection without first asking for and obtaining a permit, Council or the Zoning Officer may direct the removal of such sign or other device and cause the cost thereof to be assessed, by municipal lien, against the property.

(A.O.

PART 7

ADMINISTRATION

§27-701. Zoning Officer.

1. Purposes, Organization and Applicability of this Section. The Zoning Officer is an appointed officer of the Borough of Philipsburg. As such, he or she is a non-elected member of the Borough's executive branch. The Zoning Officer is this Chapter's chief administrative official, and thus, is key to the success of this Chapter in meeting its goals.
 - A. Subsection (2) of this Section notes how the Zoning Officer should be appointed by Borough Council, subsection (2) explains his or her powers under this Chapter and subsection (4) discusses his or her ability to conduct inspections. Subsection (5) lists the duties of the Zoning Officer.
 - B. The provisions of this Section only apply to the Zoning Officer and the parties with which he or she comes into contact. Like the other Sections of this Part, these provisions do not apply to the property owners regulated by this Chapter unless a Section of Part 1 or Part 2 says so.
2. Appointment of the Zoning Officer. A Zoning Officer shall be appointed by Borough Council to administer this Chapter. This officer shall:
 - A. Not hold any elected offices within the Borough of Philipsburg.
 - B. Meet qualifications established by the Borough.
 - C. Be able to demonstrate to the satisfaction of the Borough Council a working knowledge of municipal zoning.
 - D. Be familiar with both this Chapter and the Comprehensive Plan.
3. Powers of the Zoning Officer. The zoning officer shall administer this Chapter in accordance with its literal terms. He or she shall not have the power to permit any construction, use, or change of use which does not conform to the provisions of this Chapter.
4. Inspections. In fulfilling the duties listed under subsection (5) below, the Zoning Officer is hereby authorized to enter and inspect any building, structure, premises, property or development in the Borough at any reasonable hour upon presentation of proper credentials. If entry is refused, the Zoning Officer shall notify the Borough Solicitor.
5. Duties of the Zoning Officer. The Zoning Officer's duties are as follows.

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- A. The Zoning Officer shall receive, process, file copies of and make decisions on all applications for zoning permits as required by §27-115, "Zoning Permits." Where such a permit is denied, the Zoning Officer shall inform the applicant, in writing, of the basis for this denial.
- B. The Zoning Officer shall receive, process, file copies of, and make decisions on all applications for occupancy permits as required by §27-116, "Occupancy Permits." Where such a permit is denied, the Zoning Officer shall inform the applicant, in writing, of the basis for this denial.
- C. The Zoning Officer shall receive, process, file copies of and make decisions on all requests for preliminary opinions as required by §27-124, "Preliminary Opinions." The Zoning Officer shall inform the applicant, in writing, of his or her decision and the basis thereof.
- D. The Zoning Officer shall grant a certificate of nonconformity to the owner of a nonconforming structure, building, sign, lot or land use when the owner requests such a certificate and if his or her property is found to be nonconforming (as opposed to conforming or illegal) (see §27-117, "Nonconformities"). Where such a certificate is denied, the Zoning Officer shall inform the applicant, in writing, of the basis for this denial.
- E. The Zoning Officer shall make and maintain a list of all nonconforming structures, buildings, signs, lots and land uses within the Borough, as required by §27-117, "Nonconformities."
- F. The Zoning Officer shall maintain the "Official Zoning Map of the Borough of Philipsburg" as requested by §27-203, "Establishment of the Official Zoning Map."
- G. The Zoning Officer shall receive, process, file copies of, forward, and schedule hearings for all applications for hearings before the Zoning Hearing Board, including applications for variances (see §27-118, "Variances"), expanding a nonconforming land use (see §27-117, "Nonconformities"), changing one nonconforming use to another (see §27-117, "Nonconformities"), challenges to the procedural validity of this Chapter that are to be heard by the Board (see §27-120, "Procedural Challenges"), challenges to the substantive validity of a provision of this Chapter that are to be heard by the Board (see §27-121, "Substantive Challenges"), special exceptions (see Part 3, "Special Exceptions and Conditional Uses"), challenges to the determination of a municipal officer (see §27-122, "Appealing the Determination of a Municipal Officer"), and challenges to the Zoning Officer's preliminary opinions (see §27-124, "Preliminary Opinions").
- H. In all Zoning Hearing Board hearings, the Zoning Officer shall provide all involved parties with copies of the items sent to the Board, advertise the hearing as required by the public notice provisions of §27-702 ("Zoning Hearing Board") and represent the Borough of Philipsburg as a party to the

hearing. The Zoning Officer should not prepare the Board's decisions, as this would be a conflict of interest.

- I. The Zoning Officer shall receive, process, file copies of, forward, and schedule hearings for all applications for zoning-related hearings before the Borough Council, including applications for conditional uses (see Part 3, "Special Exceptions and Conditional Uses"), landowner curative amendments (see §27-121, "Substantive Challenges") and temporary uses (see Part 4, "Temporary Uses").
- J. In all zoning-related Borough Council hearings, the Zoning Officer shall provide all involved parties with copies of the items sent to the Council and advertise the hearing as required by the public notice provisions of §27-703 ("Borough Council").
- K. The Zoning Officer shall collect all zoning-related fees required by this or any other pertinent Chapter.
- L. The Zoning Officer shall properly maintain all filings required by this Section.
- M. The Zoning Officer shall interpret this Chapter in accordance with §27-107, "Interpreting the Language of This Chapter."
- N. The Zoning Officer shall send enforcement notices to what he or she deems to be violators of this Chapter as specified in §27-119, "Enforcement." Such notices should be sent via certified mail, sent return receipt requested, or personally served to provide proof that the notice was received.
- O. The Zoning Officer shall receive, process, file copies of, and make decisions on all applications for home occupations as required by §27-502, "Home Occupations." The Zoning Officer shall provide, in writing, the basis for these decisions.
- P. The Zoning Officer shall determine the adequacy of any buffering required by this Chapter and require more buffering when necessary according to the requirements of §27-505, "Required Buffering."
- Q. The Zoning Officer shall perform all other duties prescribed for him or her by this or any other pertinent Chapter.

(Ord. 984, 6/14/1999, Art. VII, §700)

§27-702. Zoning Hearing Board.

- 1. Purposes, Organization and Applicability of This Section. The Zoning Hearing Board of the Borough of Philipsburg is a quasi-judicial body within the municipal

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government. It has no legislative power, has no enforcement power and cannot make or modify zoning policy. It is instead a judicial-like body that helps to assure fair and equitable application and administration of this Chapter. The purposes of this Section are to establish the Board, outline its duties and prescribe procedures that it is to use in fulfilling its duties.

- A. Subsection (2) of this Section explains how the Board is to be established, while subsection (3) details how its members may be removed. Subsection (4) explains how the Board is to be organized and provides some guidance concerning how it is to operate. Subsection (5) discusses how the Board may spend money. Subsection (6) lists the duties of the Board and provides some rules on how these duties are to be carried out. Subsection (7) notes that the Board's decisions may be appealed to the relevant Court of Common Pleas.
 - B. The Zoning Hearing Board must use the same procedure in each of its hearings regardless of which one of its duties from subsection (6) that hearing falls under. Throughout this Chapter, provisions that concern the Zoning Hearing Board have remarked that it is to hear the involved case by way of the procedure outlined in this Section. This procedure is provided in a multi-page table under subsection (8).
 - C. The provisions of §27-702 only apply to the Zoning Hearing Board and the parties with which it comes into contact. Like the other sections of this Part, these provisions do not apply to the property owners regulated by this Chapter unless a section of Part 1 or Part 2 says so.
2. Formation of the Zoning Hearing Board. The Zoning Hearing Board of the Borough of Philipsburg shall consist of three residents of the Borough, appointed by Borough Council by way of a resolution. Each member's term of office shall be 3 years and shall be fixed so that the term of one member shall expire each year. Members of the Zoning Hearing Board shall hold no other office in the Borough. The Borough Council may also appoint by resolution from one to three residents of the Borough to serve as alternate members of the Board. The term of office of an alternative member shall also be 3 years. When an alternative is seated on the Board (see subsection (4) below), he or she shall be entitled to participate in all proceedings to the same extent as any other member of the Board. However, alternates shall not be entitled to vote as a member of the Board or be compensated unless they have been designated as a voting alternate member as required by subsection (4) below. Alternates shall also hold no other office in the Borough.
 3. Removal of Zoning Hearing Board Members. Any board member may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of the Borough Council. However, the member must receive notice of the intent to take such a vote at least 15 days before the actual vote is taken and he or she may request that a public hearing be held in connection with the vote.

4. Organization of the Board. The Zoning Hearing Board shall elect officers from its own membership. Such officers shall serve annual terms and may succeed themselves.
 - A. For the conduct of any hearing and the taking of any action or votes, a quorum shall be no less than a majority of all of the members of the Board. However, the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf. As noted under subsection (8) below, the applicant/appellant and the Borough may agree to accept the decision or findings of the Hearing Officer as final and to relieve the Board of voting on any final decisions.
 - B. If, for reasons of absence or disqualification, a quorum is not reached, the chairman of the Board shall designate enough alternates as voting alternative members to reach the quorum. Any alternate so designated shall continue to serve on the Board in all proceedings involving the matter or case for which he or she was designated until the Board has made a final determination on that matter or case. Such designations shall be made on a rotating basis among all alternates on the order of declining seniority.
 - C. Tie votes shall be interpreted as maintaining the status quo in the matter at hand. For instance, special exceptions are denied when the Board is tied.
 - D. The Board may make, alter and rescind rules and forms for its procedure, consistent with the requirements of this Chapter and the laws of the Commonwealth of Pennsylvania. The Board shall keep full public records of its business¹⁷ and shall submit a report of its activities to Borough Council if requested.
5. Expenditures for Services. Within the limits of funds available, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties, as fixed by the Borough Council, but this compensation may not exceed the Borough Council's own compensation. Alternates may also be paid compensation, as fixed by the Borough Council, when they are designated as voting alternative members of the Board. However, their compensation may also not exceed the compensation paid to members of Borough Council.
6. Duties of the Zoning Hearing Board. The Board's duties shall be as follows. All hearings conducted in pursuit of these duties shall be held according to the rules of subsection (8) below.
 - A. The Board shall hear substantive challenges to the validity of this Chapter and its amendments in accordance with §27-121, "Substantive Challenges."

¹⁷ Note: Such records shall be the property of the Borough.

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- (1) Based on the testimony presented at the hearing or hearings, the Board shall determine whether the challenged Chapter, ordinance provision or map is defective as alleged by the applicant. If the challenge is found to have merit, then the final decision of the Board shall include recommended amendments to the challenged ordinance which will cure the involved defects.
 - (2) In reaching its decision on a substantive challenge to validity of this Chapter or its amendments, the Board shall consider:
 - (a) The impact of the proposal on roads, sewer facilities, water supplies, schools and other public service facilities.
 - (b) If the proposal is for a residential use, the impact of the proposal on regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the Chapter or map.
 - (c) The suitability of the site for the intensity of use proposed, considering the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features.
 - (d) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts.
 - (e) The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.
 - (3) The challenge shall be deemed to be denied if the Board votes against the challenge, fails to commence the hearing within 60 days or fails to act on the application within 45 days of the close of the last involved hearing. In the latter two of these cases, the involved time limit may be extended by mutual consent of the applicant and the municipality. If no such consent is reached, the challenge shall be denied on the day after the last day that the Board could have taken the involved action.
- B. The Board shall hear procedural challenges to the validity of this Chapter or one of its amendments in accordance with §27-120, "Procedural Challenges."
- C. The Board shall hear appeals from the zoning-related determinations of any municipal officer, including the zoning officer in accordance with §27-122, "Appealing the Determination of a Municipal Officer."

- D. The Board shall hear appeals from the determinations of the municipal engineer or the Zoning Officer with reference to any floodplain provisions of any land use ordinance.
 - E. The Board shall hear appeals to the Zoning Officer's preliminary opinions (see §27-124, "Preliminary Opinions").
 - F. The Board shall hear applications for variances in accordance with §27-118, "Variances"
 - G. The Board shall hear applications for special exceptions in accordance with Part 3, "Special Exceptions and Conditional Uses." In granting a special exception, the Board may attach any reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Chapter.
 - H. The Board shall hear applications to expand a nonconforming land use or to change one nonconforming land use to another in accordance with §27-117, "Nonconformities."
 - I. For land uses not listed in the table under §27-212(4) ("Land Uses, Off-Street Parking and Off-Street Loading"), the Zoning Hearing Board shall determine which zoning districts they shall be allowed in, how they shall be allowed in those districts (i.e., as permitted principal uses, permitted accessory uses, conditional uses, etc.) and which Sections of the remainder of the Chapter apply to them. The Board may ask the Planning Commission for a recommendation on these matters.
 - J. The Board shall hear all other applications and appeals that are assigned to it by this Chapter or the laws of the Commonwealth of Pennsylvania.
7. Appeals from the Decisions of the Zoning Hearing Board. All decisions rendered by the Zoning Hearing Board may be appealed to the Centre County Court of Common Pleas, so long as these appeals are filed no more than 30 days after the Board renders its decision.
8. Procedure to be Used by the Zoning Hearing Board. In fulfilling its duties listed under subsection (6) above, the Board shall follow the rules and procedures specified for it by the table below.

Subject	Rules
Time Limitations	Each hearing that is to be held shall begin within 60 days of the date that the request for that hearing was filed.

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Subject

Rules

The Zoning Hearing Board or the Hearing Officer (as the case may be) shall render a written decision or (when no decision is called for) make written findings on the application within 45 days of the end of the hearing.

If the hearing is conducted by a hearing officer (see subsection (4) above) and there has been no stipulation that his or her decisions or findings are final, the Zoning Hearing Board shall make his or her report and recommendations available to all of the involved parties within 45 days of the end of the hearing. The parties are then entitled to make written responses to this report. The Zoning Hearing Board shall make a final decision after reading these responses, but no later than 30 days after the Hearing Officer's report is issued.

Where the Zoning Hearing Board fails to render this decision within the required period, or where the Board fails to hold the hearing within the required period, the decision shall be deemed to have been rendered in favor of the applicant or appellant (as the case may be) unless either the applicant/appellant has agreed in writing or on the record to an extension of time, or the hearing concerns a challenge to the substantive validity of the Chapter¹⁸ (see §27-121, Substantive Challenges). When a deemed decision is rendered, the Board shall give notice of this within 10 days of the last day that it could have met to render a decision to the parties and at the locations listed under "Required Public Notice" below. If the Board fails to provide such notice, the applicant/appellant may do so. Note that protesting or aggrieved parties cannot obtain a deemed decision.

Required Public Notice

A notice containing the information listed under "Contents of Required Public Notice" below shall be published once each week for two successive weeks in a newspaper of general circulation in the Borough. The first of these publications shall not be more than 30 days before the date of the hearing, and the second shall not be less than 7 days before the date of the hearing.

¹⁸ Note: Where the Zoning Hearing Board fails to commence a hearing on the substantive validity of the ordinance within 60 days of the involved request, or where the Board fails to act on such a hearing within 45 days of its closure, the challenge shall be deemed to be denied.

Subject

Rules

Contents of the Required Public Notice

Written notice shall be mailed to the applicant, the Zoning Officer, any other party that Borough Council has designated by ordinance and any party that has requested such notice. The timing and manner of this notice shall follow rules adopted by the Zoning Hearing Board.

Written notice shall be conspicuously posted on the involved tract of land at least one week prior to the hearing.

The notice shall state that the Zoning Hearing Board of the Borough of Philipsburg will hold a public hearing on the appropriate date, at the proper time, and at the pertinent location.

The purpose of the hearing and the particular issue or issues that will be discussed there shall be summarized.

The name of the applicant or appellant (as the case may be) shall be given, as well as a brief summary of his or her proposal or appeal.

The location or locations of the involved property or properties shall be provided.

Any applicable sections of the ordinance shall be cited.

If the involved hearing involves a substantive challenge to the validity of this Chapter or one of its amendments, then the notice shall state that the validity of the Chapter is being questioned and note where the public may examine a copy of the challenge, including any plans, explanatory materials, or proposed amendments.

The following statement shall be included: "All persons having an interest in these matters are encouraged to attend this meeting. Persons with a disability who wish to attend this hearing and require an auxiliary aid, service, or other disability accommodation to participate in the proceedings can be accommodated by contacting the Borough Manager's Office."

The date of the publication shall be given.

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Subject

Stays of Proceedings

Rules

An appeal to the Zoning Hearing Board automatically stops all affected land development. However, if the Zoning Officer certifies that such a halt would cause an imminent danger to life or property, then the development may be stopped only with a restraining order granted by the Zoning Hearing Board or by any court with competent jurisdiction following notice to the Zoning Officer.

An applicant or appellant may petition a court of competent jurisdiction to force those contesting an authorized permit or approval to either post bond or drop their appeal. The burden of proof shall be on the applicant/appellant to prove that the appeal is frivolous. If the party contesting an authorized permit or approval refuses to post bond as ordered by the involved court, appeals to an appellate court, and loses, then that party is liable for all reasonable costs, expenses, and attorney fees incurred by the applicant/appellant.

Parties in the Hearing

The parties to the hearing shall be the Borough, any person affected by the application or appeal who has made timely appearance of record before the Board and any other person, including civic or community organizations — permitted to appear by the Board. The Board may require that everyone who wishes to be considered a party to a hearing fill out a form that asks the person's name and address, who he or she is representing, and whether or not he or she desires a copy of any final decision in the case.

Fees

The Borough Council may prescribe reasonable fees for a Zoning Hearing Board hearing which may include compensation for the secretary and members of the Board, public notice and advertising costs, necessary administrative overhead connected with the hearing and one-half of the stenographer's fee (the other half must be paid by the Board).

The cost of the original transcript shall be paid by the Board if the original is ordered by the Board or the Hearing Officer and shall be paid by the applicant/appellant if he or she orders it. Additional copies shall be paid for by the parties requesting them.

Fees may not compensate for the legal expenses of the Board. Furthermore, fees may not be used to compensate engineering, architectural, planning or other technical consultants or expert witnesses.

Subject

Rules

The Zoning Hearing Board's Solicitor

The Zoning Hearing Board may hire its own solicitor.

The Zoning Hearing Board's solicitor shall be a different person and shall be from a different law firm, than the Borough's Solicitor.

Conducting the Hearing

Either the Zoning Hearing Board or a Hearing Officer (see subsection (4) above) shall conduct all hearings.

A stenographic record that conforms with civil trial transcripts must be taken in all hearings. Furthermore, written minutes shall be taken of all Board meetings. The substance of all official actions, the names of people who appear officially and the subject of their testimony must be recorded.

Each party has the right to be represented by counsel, to present and respond to evidence, and to cross-examine adverse witnesses on all relevant issues.

The chairman of the Zoning Hearing Board (if a Hearing Officer has not been appointed) or the Hearing Officer (if one has been appointed, see subsection (4) above) has the power to administer oaths and issue subpoenas to compel both the attendance of relevant witnesses and the production of relevant papers. All testimony should be sworn, as unsworn statements do not constitute legal evidence to make a record.

Formal rules of evidence do not apply to hearings. However, the Zoning Hearing Board may exclude any irrelevant, immaterial, or unduly repetitious evidence. Hearsay evidence, if not objected to, may be given its natural probative value. Yet, the Board has the power to reject even uncontradicted testimony if it finds this testimony to be lacking in credibility.

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Subject

Rules

In the time following the beginning of a hearing and prior to a rendering of the decision or findings, the Board shall not communicate with any party or party representatives unless all parties are given an opportunity to participate. No communication, reports, staff memoranda, or other materials — except advice from the Board's own solicitor may be accepted or noticed by the Board unless all parties are given an opportunity to contest that information. The Board should not inspect the involved site or its surroundings during the hearings unless all parties are given an opportunity to be present. Any reports by the Zoning Officer shall be filed with all involved parties.

A case should not be postponed to a later date without substantial or compelling reasons, especially if the issue is of great concern and has attracted an audience. However, where a new issue is raised for the first time at a hearing and the applicant/appellant had no notice of this issue, the hearing should be continued at a later date to give the applicant/appellant an opportunity to react properly. When a case is continued at a second hearing, a notice shall be prominently posted at the hearing site, and all involved parties must be notified.

Mediation

Mediation is "a voluntary negotiating process in which parties in a dispute mutually select a neutral mediator to assist them in jointly exploring and settling their differences, culminating in a written agreement which the parties themselves create and consider acceptable" (from The Pennsylvania Municipalities Planning Code). Mediation is intended to supplement, but not replace, the procedures for Zoning Hearing Board hearings specified here. It can provide a potentially less costly mechanism for resolving land use disputes, as well as a less polarized process.

In no case may the Zoning Hearing Board initiate mediation or participate as a mediating party.

Subject

Rules

Participation in mediation must be voluntary, and the involved parties must agree to funding, the selection of a mediator, the completion of mediation (including the time limits for such a completion), the suspension of the time limits authorized by this ordinance and the Pennsylvania Municipalities Planning Code (Act of 1968, P.L. 805, No. 247, as reenacted and amended)¹⁹ the identification of all parties, the determination of whether some or all sessions shall be open or closed and the issuance of mediation solutions in writing, subject to review and approval by the decision making body.

No offers or statements made in the mediation sessions, excluding the final written mediated agreement, can be admissible as evidence in any subsequent judicial or administrative proceedings.

Making a Decision

The decision or, where no decision is called for, the findings shall be made by the Zoning Hearing Board. However, the applicant/appellant and the Borough may agree before this decision to waive this and instead accept the decision or findings of the Hearing Officer as final (if a Hearing Officer has been appointed).

In voting on a final decision, the vote cast by each member of the Board (or the Hearing Officer, where appropriate) shall be made publicly.

Where an application or appeal is contested or denied, the resulting decision must be accompanied by a finding of fact, the conclusions based on these facts, and the reason that such conclusions were drawn. This will show that the decision was reasoned, and not arbitrary. References to any provisions of any ordinance, rule or regulation relied on for any conclusion must be made, along with the reason that the conclusion is appropriate for the particular case at hand.

Even where an application or appeal is not contested, the resulting decision should be accompanied by a statement of findings or an opinion that is detailed enough to substantiate the Zoning Hearing Board's decision.

¹⁹ **Note: The suspension of these time limits must be agreed to in writing by the involved parties, and by both the applicant/appellant and the municipality (not the Zoning Hearing Board) — even if neither one of these two is a party to the mediation.**

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Rules

A copy of the final decision, or where no decision is called for, the findings must be delivered or mailed to the applicant/appellant no later than the day after the date of the report.

All other parties to the hearing, as well as all of the parties that are listed under "Required Public Notice" above, shall be sent a brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

(Ord. 984, 6/14/1999, Art. VII, §705)

§27-703. Borough Council.

1. Purposes, Organization and Applicability of this Section. The Borough Council of Philipsburg is the chief governing body of the Borough, and is the only body that can set the Borough's zoning policy. The Council, of course, has many duties. The purpose of this section is to address only Council's zoning-related duties outlining these duties and prescribing the procedures that Council is to use in fulfilling them.
 - A. Subsection (2) of this Section lists Council's major duties under this Chapter and specifies some rules that apply to each. Subsection (2)(A) addresses the appointment of the Zoning Officer, subsection (2)(B) discusses the granting of temporary uses (see Part 4, "Temporary Uses") and number subsection (2)(C) deals with the granting of conditional uses (see Part 3, Special Exceptions and Conditional Uses). Subsection (2)(D) specifies the process by which Council may amend this Chapter, while subsection (2)(E) explains how Council is to hear and decide on landowner curative amendments to this Chapter (see §27-121, "Substantive Challenges"). Subsection (2)(F) discusses the setting of off-street parking space and loading berth requirements.
 - B. Subsection (2)(G) explains the procedure for municipal curative amendments. A municipal curative amendment can be used to fix a portion of this Chapter that is substantially invalid. It has a major advantage over fixing invalid provisions via a plain amendment (i.e., the procedure described in subsection (2)(D)) in that the Borough need not entertain any substantive challenges to these provisions (see §27-121, "Substantive Challenges") during the municipal curative amendment process which can save the Borough a significant amount of time and money.
 - C. The provisions of this Section only apply to the Borough Council and the parties with which it comes into contact on zoning-related issues. Like the other Sections of this Part, these provisions do not apply to the property owners regulated by this ordinance unless a section of Parts 1 or 2 says so.

2. Zoning-Related Duties of the Borough Council. The Borough Council's major duties under this ordinance as well as some rules that apply to these duties are provided below:
 - A. The Borough Council shall appoint the Borough's Zoning Officer according to the requirements of §27-701, "Zoning Officer."
 - B. The Borough Council shall hear all applications for temporary uses according to both the following rules and the express requirements of Part 4, "Temporary Uses."
 - (1) The Borough Council shall commence a hearing on an application for a temporary use within 60 days of that application's being filed in a complete state with the Zoning Officer.
 - (2) The Zoning Officer shall provide public notice of this hearing in the same manner as the public notice of a special exception hearing before the Zoning Hearing Board would be provided (see §27-702(8)).
 - (3) Council shall render a written decision on the temporary use application within 45 days of the last involved hearing before Council.
 - (4) Where Council fails to commence the hearing within the first period stipulated above, or where Council fails to render the decision within the second period stipulated above, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been deemed in this manner, Council shall give public notice of the decision within 10 days of the last day that it could have met to render a decision.
 - (5) Where the application is contested or denied, it shall be accompanied by findings of facts, the conclusions based on these facts and the reason that such conclusions were drawn. This will show that the decision was reasoned, and not arbitrary. References to any provisions of any ordinance, rule or regulation relied on for any conclusion must be made, along with the reason that the conclusion is appropriate for the particular case at hand.
 - (6) A copy of the final decision shall be delivered to the applicant personally or mailed to him no later than the day following its date.
 - (7) The Council's decision concerning an application for a temporary use may be appealed to the Centre County Court of Common Pleas.

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- C. The Borough Council shall hear all applications for conditional uses according to both the following rules and the express provisions of Part 3, "Special Exceptions and Conditional Uses."
- (1) The Borough Council shall commence a hearing on an application for a conditional use within 60 days of that application's being filed in a complete state with the Zoning Officer.
 - (2) The Zoning Officer shall provide public notice of this hearing in the same manner as the public notice of a special exception hearing before the Zoning Hearing Board would be provided (see §27-702(8)).
 - (3) The Borough Council shall render a written decision within 45 days of the last involved hearing before Council.
 - (4) Where Council fails to commence the hearing within the first period stipulated above, or where Council fails to render the decision within the second period stipulated above, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been deemed in this manner, Council shall give public notice of the decision within 10 days of the last day that it could have met to render a decision.
 - (5) In granting a conditional use, Borough Council may attach reasonable conditions and safeguards, in addition to those expressed in Part 3 ("Special Exceptions and Conditional Uses"), as it may deem necessary to implement the purposes of this Chapter
 - (6) Where the application is contested or denied, it shall be accompanied by findings of facts, the conclusions based on these facts and the reason that such conclusions were drawn. This will show that the decision was reasoned and not arbitrary. References to any provisions of any ordinance, rule or regulation relied on for any conclusion must be made, along with the reason that the conclusion is appropriate for the particular case at hand.
 - (7) A copy of the final decision shall be delivered to the applicant personally or mailed to him no later than the day following its date.
 - (8) Applications for conditional uses may be appealed to the Centre County Court of Common Pleas.
- D. The Borough Council shall enact all amendments to this Chapter that are not landowner curative amendments according to the rules below.
- (1) Before voting on the enactment of such an amendment, the Borough Council shall hold a public hearing.

- (2) Public notice of this hearing shall be provided according to the rules below.
 - (a) The public notice shall include the time and place of the hearing, the purpose of the hearing, the full text or a brief summary of the proposed amendment prepared by the Borough Solicitor, the date of the publication and a statement that reads "All persons having an interest in these matters are encouraged to attend this meeting. Persons with a disability who wish to attend this hearing and require an auxiliary aid, service, or other disability accommodation to participate in the proceedings can be accommodated by contacting the Borough Manager's Office."
 - (b) If a summary of the proposed amendment is included in the public notice instead of its full text, then the notice shall include a place within the municipality where copies of the full text may be examined without charge or copied at cost, a copy of the full text shall be supplied to a newspaper of general circulation in the Borough at the time the public notice is published in that paper and an attested copy of the full text shall be filed in the Centre County law library or another County office designated by the County commissioners.
 - (c) This public notice shall be published in a newspaper of general circulation once each week for 2 consecutive weeks. The first of these publications shall not be more than 60 days prior to passage or 30 days before the hearing. The second of these shall not be less than 7 days before either the hearing or passage.
 - (d) If substantial changes are made in the proposed amendment before passage but after the involved public hearing, then a notice shall be published in a newspaper of general circulation within Philipsburg at least 10 days prior to enactment that sets forth the provisions in reasonable detail together with a summary of the changes made. If these changes involve land that was previously not affected by the proposed amendment, then the above requirement shall be dropped and the public hearing process shall start over again.
 - (e) If the amendment at hand involves a zoning map change, then notice of the hearing shall be posted by the Borough at points deemed sufficient along involved tracts to notify potentially interested citizens. Such postings shall be made at least one week prior to the date of the hearing.
- (3) If the amendment was prepared by a group other than the Planning Commission, then Borough Council shall submit it to the Planning

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Commission at least 30 days prior to that amendment's hearing so that the Planning Commission may submit its recommendations.

- (4) Council shall submit the proposed amendment to the Centre County Planning Commission for recommendations at least 30 days before that amendment's public hearing. If the amendment is enacted, then a copy of it shall be forwarded to the Centre County Planning Commission within 30 days of this enactment.
 - (5) The Borough may offer a mediation option as an aid in completing this Section's proceedings. Mediation is described in the table²⁰ in §27-702(8), "Zoning Hearing Board."
- E. The Borough Council shall hear all applications for landowner curative amendments according to both the following rules and the provisions of §27-121, "Substantive Challenges."
- (1) The Council shall commence a hearing on a proposed landowner curative amendment within 60 days of the filing of a complete application for that amendment.
 - (2) Public notice of this hearing shall be given according to the requirements of subsection (2)(D)(2) above. This notice shall include notice that the validity of the ordinance or map is in question and the place and times where a copy of the proposed amendment, including any plans or explanatory materials may be examined by the public.
 - (3) Borough Council shall submit the proposed amendment to the Planning Commission at least 30 days prior to that amendment's hearing so that the Planning Commission may submit its recommendations.
 - (4) The Borough Council shall render a written decision within 45 days of the end of the hearing.
 - (5) The Borough Council may prescribe reasonable fees for such a hearing which may include compensation for the secretary, public notice and advertising costs, necessary administrative overhead connected with the hearing and one-half of the stenographer's fee. The cost of the original transcript shall be paid by the Borough if the original is ordered by the Borough and shall be paid by the applicant if he or she orders it. Additional copies shall be paid for by the parties requesting them. Fees may not compensate for the legal expenses of the Council. Furthermore, fees may not be used to compensate engineering, architectural, planning or other technical consultants or expert witnesses.

²⁰ Note: The Borough Council shall be substituted for the Zoning Hearing Board in this table as it applies to this section.

(6) The hearing itself shall be conducted according to the rules below:

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Rules

Conducting the Hearing

A stenographic record that conforms with civil trial transcripts must be taken in all hearings. The substance of all official actions, the names of people who appear officially and the subject of their testimony must be recorded.

Each party has the right to be represented by legal council, to present and respond to evidence and to cross-examine adverse witnesses on all relevant issues.

The Borough Solicitor shall represent Borough Council, if requested. However, Council may retain an independent attorney to present the defense of the challenged ordinance.

The Council has the power to administer oaths and issue subpoenas to compel both the attendance of relevant witnesses and the production of relevant papers. All testimony should be sworn, as unsworn statements do not constitute legal evidence to make a record.

Formal rules of evidence do not apply to these hearings. However, the Council may exclude any irrelevant, immaterial or unduly repetitious evidence. Hearsay evidence, if not objected to, may be given its natural probative value. Yet, the Council has the power to reject even uncontradicted testimony if it finds this testimony to be lacking in credibility.

In the time following the beginning of a hearing and prior to a rendering of the decision or findings, the Council shall not communicate with any party or party representatives unless all parties are given an opportunity to participate. No communication, reports, staff memoranda, or other materials may be accepted or noticed by the Council unless all parties are given an opportunity to contest that information. The Council should not inspect the involved site or its surroundings during the hearings unless all parties are given an opportunity to be present. Any reports by the Zoning Officer shall be filed with all involved parties.

A case should not be postponed to a later date without substantial or compelling reasons, especially if the issue is of great concern and has attracted an audience. However, where a new issue is raised for the first time at a hearing and the applicant had no notice of this issue, the hearing should be continued at a later date to give the applicant an opportunity to react properly. When a case is continued at a second hearing, a notice shall be prominently posted at the hearing site, and all involved parties must be notified.

Making a Decision

In voting on a final decision, the vote cast by each Council member shall be made publicly.

In making its decision, Council shall consider the proposed amendments, plans, and explanatory materials submitted by the applicant; the impact of the proposal on roads, sewer facilities, water supplies, schools and other public service facilities, the impact of the proposal on regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions, the suitability of the site for the intensity of use proposed (considering the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features), the impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources and the impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

Where Council fails to render this decision within the required period, or fails to hold the hearing within the required period, the decision shall be deemed to have been rendered against the amendment. When a deemed decision is rendered, Council shall give notice of this within 10 days of the last day that it could have met to render a decision.

If Council determines that a validity challenge has merit, then it may either accept the applicant's landowner curative amendment with or without revision or adopt an alternative amendment that will cure the alleged defects in this Chapter.

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Rules

Where an application is denied, the resulting decision must be accompanied by a finding of fact, the conclusions based on these facts and the reason that such conclusions were drawn. This will show that the decision was reasoned, and not arbitrary. References to any provisions of any ordinance, rule or regulation relied on for any conclusion must be made, along with the reason that the conclusion is appropriate for the particular case at hand.

Even where an application is not denied, the resulting decision should be accompanied by a statement of findings or an opinion that is detailed enough to substantiate the involved decision.

A copy of the final decision must be delivered or mailed to the applicant no later than the day after the date of the report.

- (7) The Council's decision may be appealed to the Centre County Court of Common Pleas.
- F. The Borough Council shall determine the off-street parking space and/or off-street loading berth requirements of uses that are not listed in the table in §27-212 ("Land Uses, Off-Street Parking and Off-Street Loading") and lots or buildings whose use is not yet known to the level of detail required by this Table. In doing so, Council may request a recommendation from the Philipsburg Planning Commission.
- G. If Borough Council determines that this ordinance or a portion thereof is substantially invalid or defected, then Council may initiate a municipal curative amendment as follows.
- (1) Council shall first declare this ordinance or the substantially invalid portion or portions thereof to be invalid by formal action and propose to prepare a municipal curative amendment to overcome these invalidities.
 - (2) Within 30 days of the declaration and proposal, Council shall:
 - (a) Make findings by resolution that set forth the declared invalidity or invalidities (this may include references to specific uses which are either not permitted or not permitted in sufficient quantity, to a class or use or uses which require revision or to the entire Chapter.
 - (b) Begin to prepare and consider a curative amendment to the this Chapter that will correct these invalidities.
 - (3) Within 180 days of the declaration and proposal, Council shall either enact this curative amendment according to the provisions of subsection (2)(D) of this Section or reaffirm the validity of this Chapter.

- (4) During this 180 day period, the Borough of Philipsburg, its Council and its Zoning Hearing Board shall not be required to entertain or consider any substantive challenges to the validity of this Chapter (as laid out in §27-121, "Substantive Challenges") that are based on the same invalidities declared under subsection (G)(2) above.
- (5) The Borough may not initiate another municipal curative amendment for 36 months after the date that either the curative amendment is enacted or the validity of this ordinance is reaffirmed. However, if a new duty or obligation is imposed on the Borough by a statute or a Pennsylvania Appellate Court decision, then the Borough may ignore this rule in order to amend this Chapter to fulfill said duty or obligation.

(Ord. 984, 6/14/1999, Art. VII, §710)

PART 8

DEFINITIONS

§27-801. Definitions.

The words that are defined in this article shall be interpreted as they are defined here. Words that are not defined here shall be given their usual and ordinary meaning within the Borough of Philipsburg. See §27-107, "Interpreting the Language of This Chapter," for other rules concerning the interpretation of this ordinance's wording.

ACCESSORY BUILDING — a building which is subordinate to the main building on the lot and is used for purposes customarily incidental to the use of the main building or lot.

ACCESSORY STRUCTURE — a structure detached from a principal building but located on the same lot. It serves a customarily incidental and subordinate use to the use of the lot as a whole or the lot's principal building.

ADULT ARCADE — a place to which the public is permitted or invited to come and operate coin or slug-operated still picture machines, motion picture machines, projectors or other image-producing devices that are electronically, electrically or mechanically controlled. In an adult arcade, some or all of these devices are maintained to show images to five or fewer persons at any one time. The images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

ADULT BOOKSTORE or ADULT VIDEO STORE — a commercial establishment which, as one of the principal business purposes, offers for sale or rental for any form of the following:

- A. Books, magazines, periodicals, photographs, other printed matter, films, motion pictures, video cassettes, video reproductions, slides or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas."
- B. Instruments, devices or paraphernalia which are designed 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 an 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 activities" or "specified anatomical areas."

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ADULT CABARET — a nightclub, bar or similar commercial establishment which regularly features one or more of the following:

- A. Persons who appear in the state of nudity.
- B. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."
- C. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

ADULT MOTEL — a hotel, motel, or similar commercial establishment which:

- A. 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 depiction or description of "specified sexual activities" or "specified anatomical areas" and which advertises the availability of this adult type of photographic reproduction.
- B. Offers sleeping rooms for rent four or more times in 1 calendar day during 5 or more calendar days in any continuous 30 day period.

ADULT MOTION PICTURE THEATER — a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or other photographic reproductions are regularly shown that are characterized by the depiction or description of "special sexual activities" or by "specified anatomical areas."

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 "specified sexual activities."

ADULT RETIREMENT COMMUNITY — a planned development that emphasizes social and recreational activities but may also provide personal services, limited health facilities and transportation for retired senior citizens.

AGRICULTURAL SERVICE BUSINESS — establishments primarily engaged in supplying soil preparation services, crop services, landscaping, horticultural services, veterinary and other animal services or farm labor and management services.

AISLE — the traveled way by which cars enter and depart parking spaces.

ANIMATED SIGN — any sign that uses movement or change of lighting to depict action or create a special effect or scene.

ANTENNA — a device used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based structures.

ARCHITECTURAL CONCEPT — the basic aesthetic idea of a building, group of buildings, group of structures or site and landscape development that produces distinctive character.

AUTOMOBILE — a self propelled free moving vehicle with four or more wheels that is intended to be used primarily as conveyance on a street or roadway.

AUTOMOBILE REPAIR SHOP — a business that engages in engine rebuilding, major reconditioning of broken or damaged motor vehicles or trailers, collision repair service (including body, frame or fender straightening or repair), vehicle painting, replacement of parts, motor service to automobiles and/or state inspections.

AUTOMOBILE SALES — the use of any building, land area, or other premise for the display and sale of new or used automobiles, trucks, vans, trailers, or recreational vehicles, including any vehicle preparation or repair work conducted as an accessory use.

BANNER — any sign of lightweight fabric or similar material that is permanently mounted to a pole or building by a permanent frame at one or more edges. National flags, State or municipal flags or the official flag of any institution or business shall not be considered banners.

BAR — premises used primarily for the sale or dispensing of liquor by the drink for on-site consumption. Food may be available for consumption on the premises as an accessory use. Such establishments are licensed by the Pennsylvania Liquor Control Board.

BASEMENT — a structure story that is partly underground, but has at least one-half of its height above the average level of the adjoining ground.

BEACON — any light with one or more beams directed into the atmosphere or directed at one or more points that are not on the same lot as the light source.

BED AND BREAKFAST ESTABLISHMENT — the provision of overnight accommodations for transient guests on a daily or weekly basis. The owner of the dwelling must live on the premises.

BOROUGH — the Borough of Philipsburg.

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BUILDING — any structure having a roof supported by columns or walls that is intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods, business or materials of any kind.

BUILDING FRONTAGE — a side of a building that faces a street to which the building's lot is adjacent.

BUILDING MARKER — any sign indicating the name and date of a building, as well as incidental information about its construction, which is cut into a masonry surface or made of bronze or other permanent material.

BUILDING, PRINCIPAL — the building in which is conducted the principle use of the lot (or in the case of sign regulations, zone lot) on which it is located. Lots or zone lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings.

BUILDING SIGN — any sign attached to any part of a building, as contrasted to a freestanding sign.

CANOPY SIGN — any sign that is a part of or attached to an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area. A marquee is not a canopy.

CAR WASH — a commercial structure, maintained as a for-profit business, that contains facilities for washing and drying automobiles. The application of cleaners, brushes, rinse water and heat for drying may be automatic, semi-automatic or manual.

CARTWAY — the paved area of a street between the curbs; including travel lanes and parking areas, but not including, shoulders, curbs, sidewalks or swales.

CHANGEABLE COPY SIGN — a sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the face or surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for the purposes of this Chapter. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for the purposes of this Chapter.

CHANGE OF USE — any business or activity modification that involves changing the classification of a land use under the Standard Industrial Classification Manual from one three-digit group to another three-digit group. Changes of occupancy or changes of ownership shall not be construed as change of use.

CHILD-ORIENTED BUSINESS — a commercial establishment which, as one of its principal business purposes, serves and/or sells to children and their families food, apparels, goods, services, play and/or entertainment.

COMMERCIAL BUILDING — a building whose principal use is a commercial use. Hence, a building with a store on the first floor and apartments on the second floor is a commercial building.

COMMERCIAL DISTRICT — a zoning district that contains the word "commercial" in its full title.

COMMERCIAL LOT — a lot whose principal use is a commercial use.

COMMERCIAL MESSAGE — any sign, wording, logo or other representation that directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.

COMMERCIAL USE — an activity involving the sale of goods or services carried out for profit. A home occupation is excluded from this category solely for the purposes of this Chapter.

COMMERCIAL VEHICLE — any motor vehicle licensed by the state as a commercial vehicle.

COMPACT CAR — any motor vehicle that does not exceeded fifteen feet in length, bumper to bumper, or 5 feet, 9 inches, in width.

CONDITIONAL USE — see Part 3, "Special Exceptions and Conditional Uses."

CORNER LOT — see "lot, corner."

COUNTRY CLUB — a land area and buildings containing golf courses, recreational facilities, a clubhouse and customary accessory uses. Such clubs are usually open only to members and their guests.

COVERAGE — that percentage of the parcel or lot area that is covered by the buildings, paved areas, parking areas and accessory structures.

DAY-CARE CENTER — any premise other than the child's own home operated for profit or not for profit, in which child day care is provided at any one time to six or more children who are not relatives of the care giver.

DECISION — final adjudication of any board or other body granted jurisdiction under any land use ordinance or this Chapter to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the Court of Common Pleas of Centre County. [A.O.]

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

- A. The Borough Council.
- B. The Zoning Hearing Board.
- C. The Planning Commission, only if and to the extent the Planning Commission is charged with final decision on preliminary or final plans under the subdivision and land development ordinance or planned residential development provisions.

[A.O.]

DENSITY — the number of families, individuals, dwelling units, households or housing per unit of land.

DWELLING UNIT — any building or portion of a building that contains living facilities, including provisions for sleeping, eating, cooking and sanitation, for not more than one household or family.

ERECT — to build, construct, attach, hang, place, suspend or affix. Also, to paint a wall sign is to erect that sign.

ESCORT — a person who, for a fee, agrees or offers to act as a companion, guide or date for another person. Furthermore, an escort is a person who, for a fee, agrees or offers to privately model lingerie or perform a striptease for another person.

ESCORT AGENCY — a person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes. Such a business charges a fee, tip or other consideration for the provision of escorts.

FAMILY — a group of individuals not necessarily related by blood, marriage, adoption or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship.

FENCE — an artificially constructed barrier of any material or combination of materials erected to enclose, screen or separate areas.

FENCE, LIVING — a planted visual barrier provided along a property line consisting of low-level shrubs, hedges or similar landscape screening materials, excluding trees.

FLAG — for the purposes of this Chapter, this category includes the flags of the United States, the States themselves, local governments, foreign nations having diplomatic relations with the United States, institutions, businesses and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction. Any flag that does not meet these requirements shall be considered a banner sign by this Chapter.

FLOODPLAIN — the channel and the relatively flat area adjoining the channel of a natural stream or river that has been or may be covered by floodwater. The legal borders of floodplains are usually defined in Borough ordinances.

FREESTANDING SIGN — any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

FRONT YARD — see "yard, front."

FRONTAGE — that side of a lot abutting on a street, i.e., the front lot line.

GARAGE — a deck, building, parking structure or part thereof used or intended to be used for the parking and storage of vehicles.

GARAGE, COMMUNITY — a garage used exclusively for parking and storage of vehicles that are owned or operated by residents of nearby dwelling units and their guests. Such a garage is neither operated as a commercial enterprise nor available to the general public. It is operated by the residents themselves.

GARAGE, PRIVATE CUSTOMER AND EMPLOYEE — a structure that is accessory to a retail commercial or manufacturing establishment and is used primarily for the parking and storage of vehicles operated by the establishment's customers, visitors and employees.

GARAGE, PRIVATE RESIDENTIAL — a structure that is accessory to a residential building and that is used for the parking and storage of vehicles owned and operated by the residents thereof. A private residential garage is not a separate commercial enterprise available to the general public.

GARAGE, PUBLIC — a structure or portion thereof that is used primarily for the parking and storage of vehicles and that is available to the general public, but is not a private residential garage, private customer and employee garage, community garage or municipal garage.

GOLF COURSE — a tract of land laid out for playing the game of golf and improved with tees, greens, fairways, hazards and at least nine holes. A golf course may include a clubhouse and shelter.

GOVERNMENT BUILDING — a building owned or leased by a governmental agency.

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GOVERNMENTAL AGENCY — any department, commission, independent agency or instrumentality of the United States, the Commonwealth of Pennsylvania, Centre County, the Borough of Philipsburg or any other relevant governmental authority.

GROUP HOME — a residence occupied by unrelated persons who either by choice, referral and/or governmental policy cannot live independently by themselves, but instead require a level of assistance, monitoring or supervision related to individual situations. A group home may be distinguished from large-scale hospitals or institutions that serve the same purpose by the family-like setting in which its residents live.

GROSS FLOOR AREA — the sum of the gross horizontal areas of the several floors of a building or structure from the exterior face of exterior walls or from the centerline of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than 6 feet.

HEALTH CLUB — an establishment that provides facilities exercise such as running and jogging tracks or treadmills, exercise equipment, game courts, swimming facilities, saunas, showers, massage rooms and lockers.

HEIGHT REGULATIONS — a regulation that limits the height of a building or structure. These controls are always "maximum" height regulations in this Chapter (i.e., they specify, in feet, the greatest height that a building or structure is allowed to achieve). Such heights are measured, for all structures that are neither buildings or signs, as the vertical distance from the finished grade to the highest point of the structure. For buildings, they are measured as the vertical distance from the finished grade to the top of the highest roof beams on a flat or shed building roof, the deck level on a mansard roof or the ridge level on a gable, hip or gambrel roof. Section 602, Computations, explains how to measure the height of a sign.

HOME OCCUPATION — see §27-502," Home Occupations."

HOSPITAL — an institution providing primary health care services and medical or surgical care to persons who are primarily inpatients that are suffering from illness, disease, injury, deformity or other abnormal physical or mental conditions. Hospitals contain, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medical offices and staff residences.

HOTEL — a facility offering transient lodging accommodations to the general public and providing additional services such as restaurants, meeting rooms, entertainment and recreational facilities.

HOUSEHOLD — either a family living together, or a single person living alone, in a single dwelling unit with common access to and common use of all areas within the dwelling. See "family."

INCIDENTAL SIGN — a sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.

INDUSTRIAL BUILDING — a building whose principal use is an industrial use. Hence, a building that contains a factory and an employee cafeteria is an industrial building.

INDUSTRIAL DISTRICT — a district that contains the word "Industrial" in its full title.

INDUSTRIAL LOT — a lot whose principal use is an industrial use.

INDUSTRIAL USE — a land use that engages in research and development, wholesale distribution, storage, warehousing, packaging, production, fabrication, processing, cleaning, servicing, repair, testing and/or manufacturing activities.

INFILL DEVELOPMENT — the development of new housing or other buildings on scattered vacant sites that are surrounded by built-up areas.

INFRASTRUCTURE — facilities and services needed to sustain a community's industrial, residential, commercial and public activities.

INN — a commercial facility for the housing and feeding of transients.

LAND — ground, soil, or earth — including structures on, above or below the surface.

LAND USE — see "use."

LANDFILL — a disposal site in which refuse and a suitable cover materials are deposited and compacted in alternative layers of specified depth in accordance with an approved plan.

LANDOWNER — the legal or beneficial owner or owners of land, including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner or any other person having a proprietary interest in land.

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LANDSCAPE — an expanse of natural scenery; lawns, trees, plants, rocks, wood chips and decorative features such as sculptures, patterned walks, fountains and pools.

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

LOT, CONFORMING — an occupied or unoccupied lot whose use, buildings and layout meet the requirements of the zoning district in which it is located.

LOT, CORNER — A lot or parcel of land either abutting on two or more streets at their intersection or abutting on two parts of the same street forming an interior angle of less than 135 degrees.

LOT, DEPTH — the distance between the front and rear lot lines, measured perpendicularly to the right-of-way line at the median between the two side lot lines.

LOT, FLAG — a large lot that does not meet minimum frontage requirements and whose access to the involved public road is a narrow, private right-of-way or driveway.

LOT, IMPROVED — a lot on which a building either can be constructed and occupied or has been constructed.

LOT, INTERIOR — a lot that is not a corner lot.

LOT, RECORDED — a lot that has been designated on a plot or a subdivision, and has been duly recorded with the Recorder of Deeds of Centre County. A "recorded lot" may be conforming or non-conforming.

LOT, REVERSE FRONTAGE — a through lot that is not accessible from one of the parallel or non-intersecting streets on which it fronts.

LOT, THROUGH — a lot that fronts on two streets that do not intersect at the boundaries of the lot.

LOT AREA — the total area within the lot lines of a lot, excluding any street rights-of-way. A minimum lot area requirement specifies the smallest area that a lot may have.

LOT COVERAGE — in all districts except for the R1A and R2, this is the percentage of a lot's area that is covered by buildings. In the R1A and R2 districts, this is the percentage of a lot's area that is covered by buildings or parking spaces. See "building coverage." A Maximum lot coverage requirement specifies the largest number that this percentage is allowed to reach.

LOT FRONTAGE — the length of the front lot line. A minimum lot frontage requirement specifies the shortest length permitted.

LOT LINE — a line of record bounding a lot that divides it from an adjacent property, street, right-of-way, or public space. There are 5 kinds of lot lines, as specified below.

- A. **Lot Line Front.** On lots that are not corner lots, this is a lot line that abuts the right-of-way of a street. On corner lots, this is the lot line that abuts the right-of-way of the street (or street segment) that the main front of the principal structure located on that lot faces (or will face).
- B. **Lot Line, Rear.** A lot line, not intersecting a front lot line, which is most closely parallel to the front lot line. In the case of triangular or otherwise irregularly shaped lots, the rear lot line is a line ten feet in length that is entirely within the lot, parallel to the front lot line, and at a maximum distance from the front lot line.
- C. **Lot Line, Side.** On non-corner lots, this is any lot line other than a front or rear lot line.
- D. **Lot Line, Side Street.** On corner lots, this is a lot line that abuts the right-of-way of a street, but is not a front lot line.
- E. **Lot Line, Non-side Street.** On corner lots, this is a lot line that is not a front, rear or side street lot line.

LOT OF RECORD — a lot that exists as shown or described on a plat or deed in the records of the local registry of deeds.

LOT REGULATIONS — a minimum lot area requirement, a minimum lot frontage requirement or a minimum lot coverage requirement.

LOT WIDTH — the horizontal distance between the side lines of a lot, measured at right angles to its depth along a straight line that is parallel to the front lot line.

MAJOR IMPACT HOME OCCUPATION — See §27-502, "Home Occupations."

MANUFACTURED HOUSING — factory-built, single-family structures that meet the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sec. 5401), commonly known as the HUD (U.S. Department of Housing and Urban Development) code.

MARQUEE — any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

MARQUEE SIGN — any sign attached to or made a part of a marquee.

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MINOR IMPACT HOME OCCUPATION — see S§27-502, "Home Occupations."

MINOR TRAFFIC GENERATOR — any use or uses that generate less than a total of five hundred vehicle trips per day. See major traffic generator.

MIXED-USE DEVELOPMENT — a tract of land, building or structure that contains a variety of complementary and integrated uses in a compact urban form.

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

MOBILE HOME LOT — a parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobile home.

MOBILE HOME PARK — a parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes. Also, a site containing spaces with required improvements and utilities that are leased for the long-term placement of mobile homes and that may include services and facilities for the residents.

MOTEL — an establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside (i.e., guests need not pass through the main lobby of the building to get outside).

MULTI USE BUILDING — a building containing two or more distinct uses.

MUNICIPALITY — a political subdivision that can adopt and enforce development ordinances if so empowered by state legislation.

NEIGHBORHOOD — an area of a community with characteristics that distinguish it from other areas of that community, and which may include distinct ethnic or economic characteristics, housing types, schools or boundaries defined by physical barriers (e.g., major highways, railroads and natural features such as rivers).

NIGHTCLUB — an establishment dispensing liquor and food, music, dancing or other forms of entertainment may be conducted in a nightclub.

NO-IMPACT HOME-BASED BUSINESS — a business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to

or from the premises, in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements:

- A. The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- B. The business shall employ no employees other than family members residing in the dwelling.
- C. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- D. There shall be no outside appearance of a business use including, but not limited to, parking, signs or lights.
- E. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- F. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- G. The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.
- H. The business may not involve any illegal activity.

[A.O.]

NONCONFORMING LOT — a lot whose area or dimension was lawful prior to the adoption or amendment of a zoning ordinance, but fails to conform to the present requirements of the zoning ordinance. See §27-117, "Nonconformities,"

NONCONFORMING SIGN — a nonconforming sign is defined as a sign that was legally established before the effective date of this Chapter's enactment (see §27-106, Effective Date of This Chapter's Enactment") and does not conform the requirements of §27-602 ("Computations"), §27-603 ("Signs Allowed on Private Property With and Without Permits"), §27-605 ("Signs in the Public Right-of-Way") or §27-607 ("Prohibited Signs").

NONCONFORMING STRUCTURE — a structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by rea-

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son of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs. (see §27-117, "Nonconformities") [A..O.]

NONCONFORMING USE — a use, whether of land or structure, which does not comply with the applicable use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation. (see §27-117, "Nonconformities")

NONCONFORMITY — see §27-117, "Nonconformities."

NUDE MODEL STUDIO — a place where a person appears in a state of nudity or displays "specified anatomical areas" for the purpose of being observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or a form of consideration.

NUDITY or a STATE OF NUDITY — the appearance of a bare human buttock, anus, male genitals, female genitals or female breast.

NURSERY — land or greenhouses used to raise flowers, shrubs and plants for sale.

OCCUPANCY or OCCUPIED — either the residing of an individual or individuals overnight in a dwelling unit, or the storage or use of equipment, merchandise or machinery in any public, commercial or industrial building.

OCCUPANCY PERMIT — See §27-116, "Occupancy Permits."

OFFICE — a space within a structure or a portion thereof intended or primarily suitable for vocational occupancy by persons or entities which perform, provide for their own benefit, or provide to others at that location, services similar to the following: professional, insurance, accounting, architectural design, engineering, management, consulting, legal, technical and design or the office functions of manufacturing and warehousing businesses. However, office uses exclude retail uses, repair, any business characterized by the physical transfer of tangible goods to customers on the premises, wholesale shipping, receiving, storage, and design showcases or any other space intended and primarily suitable for the display of goods.

OFFICE (BUSINESS OR PROFESSIONAL, BUT NOT MEDICAL OR DENTAL) — an office that does not fit the definition of "office, medical or dental" below.

OFFICE (MEDICAL OR DENTAL) — an office that provides medical, dental, chiropractic, psychiatric or therapeutic message care to human beings on the premises.

OFFICIAL ZONING MAP OF THE BOROUGH — see §27-203, "Establishment of the Official Zoning Map."

OFF-SITE IMPROVEMENTS — improvements required to be made off-site as a result of an application for development. Such improvements may include, but are not limited to, road widening and upgrading, stormwater facilities and traffic improvements.

OFF-SITE PARKING — parking provided for a specific use but located on a site other than the one on which the specific use is located.

OFF-STREET LOADING BERTH — an area for the loading or unloading of cargo that is directly accessible to an access aisle, and which is not located on a dedicated street right of way.

OFF-STREET PARKING SPACE — a temporary storage area for a motor vehicle that is directly accessible to an access aisle, and which is not located on a dedicated street right of way.

ON STREET PARKING SPACE — a temporary storage area for a motor vehicle that is located on a dedicated street right-of-way.

OPEN SPACE — any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for either public enjoyment or the use of owners, occupants, their guests or the residents of land adjoining or neighboring such open space.

ORDINANCE — a municipally adopted law or regulation.

ORNAMENTAL TREE — a deciduous tree planted primarily for its ornamental value or screening ability. An ornamental tree tends to be smaller at maturity than a shade tree.

OUTDOOR STORAGE — the keeping of any goods, junk, material, merchandise or vehicles in the same enclosed area for more than 24 hours.

OVERLAY ZONE — a zoning district that encompasses one or more underlying zones, and that imposes additional requirements above those required by the underlying zones.

PARKING AREA — any public or private area, under or outside of a building or structure, designed and used for parking motor vehicles. This term includes parking lots, garages, private driveways and legally designated areas of public streets.

PARKING AREA, PRIVATE — a parking area for the exclusive use of the owners, tenants, lessees, customers, employees or occupants of either the lot the on which the parking area is located or the business situated on that lot.

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PARKING AREA, PUBLIC — a parking area open to the public, with or without payment of a fee.

PARKING LOT — an off-street, ground-level open area used for the temporary storage of motor vehicles. Parking lots are improved.

PARKING SPACE — a space for the parking of one motor vehicle within a public or private parking area.

PENNANT — any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series and designed to move in the wind.

PERMIT — written governmental permission issued by an authorized official, empowering the holder thereof to do some act not forbidden by law but not allowed without such an authorization.

PERMITTEE and/or LICENSE — a person in whose name a permit and/or license has been issued. This person is also the individual listed as an applicant on the application for a permit and/or license.

PERMITTED ACCESSORY USE — a land use or structure that is allowed by right in a zoning district, is subject to the restrictions applicable to the zoning district in which it is located and is customarily incidental and subordinate to the principal use of the lot on which it is located.

PERMITTED PRINCIPAL USE — a land use or structure that is allowed by right in a zoning district, is subject to the restrictions applicable to the zoning district in which it is located and is the principal use of the lot on which it is located.

PERMITTED USE — a land use that is allowed by right in a zoning district and is subject to the restrictions applicable to the zoning district in which it is located.

PERSON — any association, company, corporation, firm, organization or partnership, singular or plural, of any kind.

PLACE OF WORSHIP — a church, synagogue, temple, mosque, or other facility that is used for prayer or worship by persons of similar beliefs. A special purpose building that is architecturally designed and particularly adapted for the primary use of conducting on a regular basis, formal religious services by a religious congregation.

PLAT — a map representing a tract of land showing the boundaries and locations of individual properties and streets. A map of a subdivision or a site plan.

PLAT, FINAL — a map of a subdivision, a site plan, or a portion thereof that is presented to an approving authority for final approval.

PLAT, PRELIMINARY — a map indicating the proposed layout of the subdivision or site plan that is submitted to the approving authority for preliminary approval.

PLAT, SKETCH — an informal concept map of a proposed subdivision or site plan. A sketch plat has sufficient details to be used for the purposes of discussion and classification.

PLAYGROUND — an active recreational area with a variety of facilities, including equipment for younger children, court games and field games.

PLOT — a single unit parcel of land. A parcel of land that can be identified and referenced to a recorded plat or map.

PORTABLE SIGN — any sign not permanently attached to the ground or another permanent structure, or a sign designed to be transported. This includes, but is not limited to, signs designed to be transported by means of wheels, signs converted to A- or T-frames, menu and sandwich board signs, balloons used as signs; umbrellas used for advertising and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

PRINCIPAL BUILDING — see "building, principal."

PRINCIPAL USE — the primary or predominant uses of any lot or parcel.

PRIVATE SCHOOL — see "school, private."

PROFESSIONAL OFFICE — the office of a member of a recognized profession maintained for the conduct of that profession.

PROHIBITED USE — a use that is not permitted in a zone district.

PROJECTING SIGN — any sign affixed to a building or wall in such a manner that its leading edge extends more than 6 inches beyond the surface of such building or wall.

PROPERTY — a lot, parcel, or tract of land, as well as the building and structures located thereon.

PROPERTY LINE — see "lot line."

PUBLIC AREAS — this designation includes parks, playgrounds, trails, paths and other recreational areas, open spaces; scenic and historic sites; schools and other places where the public is directly or indirectly invited to visit or permitted to congregate.

PUBLIC BODY — any government or governmental agency of the Borough of Philipsburg, County of Centre, Commonwealth of Pennsylvania.

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PUBLIC BUILDING — any building structure, facility or complex used by the general public, whether constructed by the Commonwealth of Pennsylvania, Centre County, the Borough of Philipsburg, a local government, a governmental instrumentality, a private individual, a corporation, a partnership or an association. The category of "public buildings" may include assembly buildings, libraries, public eating places, schools, theaters, business buildings, factories and industrial buildings.

PUBLIC GROUNDS — includes:

- A. Parks, playgrounds, trails, paths and other recreational areas and other public areas.
- B. Sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities.
- C. Publicly owned or operated scenic and historic sites.

[A.O.]

PUBLIC HEARING — a formal meeting held pursuant to public notice by the Borough Council or Planning Commission, intended to inform and obtain public comment, prior to taking action in accordance with this Chapter. [A.O.]

PUBLIC MEETING — a forum held pursuant to notice under 65 Pa. C.S. CH 7 (relating to open meetings). [A.O.]

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

PUBLIC IMPROVEMENT — any public facility or service, together with its associated site, building or right-of-way. Public improvements generally provide an essential service and are usually owned and operated by a governmental agency.

PUBLIC UTILITY — a closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety and welfare. Telephone, electric, natural gas, water and sewer companies are public utilities; however, commercial wireless communications companies are not.

QUASI-PUBLIC USE — a use owned or operated by a nonprofit, religious, or eleemosynary institution that provides educational, cultural, recreational, religious or similar types of programs.

REAR LOT LINE — see "lot line, rear."

REAR YARD — see "yard, rear."

RECREATION FACILITY — a place designed and equipped for the conduct of sports and leisure-time activities.

RECREATION FACILITY, COMMERCIAL — a recreation facility that is operated as a business and is open to the public for a fee.

RECREATION FACILITY, PRIVATE — a recreation facility operated by a non-profit organization and open only to bona fide members and guests of that organization.

RECREATION, PUBLIC — a recreation facility open to the general public.

RECREATIONAL DEVELOPMENT — a residential development planned, maintained, operated, and integrated with a major recreation facility, such as a golf course, ski resort or marina.

RECREATIONAL VEHICLE — a vehicle-type portable structure without a permanent foundation that is primarily designed as a temporary living accommodation for recreational, camping, and travel use. A recreational vehicle can be towed, hauled or driven. The category of recreational vehicles includes, but is not limited to, travel trailers, truck campers, camping trailers and self propelled motor homes.

REGION — a geographic area defined by some common feature, such as a river basin, housing market, commuter-shed, economic activity or political jurisdiction.

RENT — a periodic payment, made by a tenant, to a landlord for the use of land, buildings, structures or other property.

RENTAL HOUSING — housing occupied by a tenant paying rent to an owner where no part of the rent is used to acquire equity in the property.

REPORT — any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to any proceeding upon request, and copies thereof shall be provided at cost of reproduction. [A.O.]

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RESEARCH LABORATORY — an establishment or facility used to carry on investigation in the natural, physical or social sciences. This may include engineering and product development.

RESIDENTIAL BUILDING — a building whose principal use is a residential use. Hence, a building that contains 100 dwellings and a small restaurant on the bottom floor is a residential building.

RESIDENTIAL DISTRICT — a zoning district that contains the word "Residential" in its title.

RESIDENTIAL DWELLING — any building or portion of a building that contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, for not more than one household or family.

RESIDENTIAL LOT — a lot whose principal use is a residential use.

RESIDENTIAL SIGN — any sign located in a district zoned for residential uses that contains no commercial message except one advertising goods or services legally offered on the premises where the sign is located.

RESIDENTIAL USE — the use of a building or lot to provide dwelling space for human beings.

RESTAURANT — an establishment where food and drink are prepared, served and consumed primarily within the principal building.

RETAIL FOOD ESTABLISHMENT, MOBILE — a vehicle normally a van, truck, towed trailer or pushcart from which food and beverages are sold.

RETAIL SALES — establishments engaged in selling goods or merchandise to the general public for personal or household consumption. Retail sales establishments may also render services incidental to the sale of such goods.

RETAIL SALES, OUTDOOR — the display and sale of products and services primarily outside of a building or structure. Goods that may be sold at an outdoor retail sales establishment include, but are not limited to, garden supplies, gas, tires, motor oil, food, beverages, boats, aircraft, farm equipment, motor homes, burial monuments, building and landscape materials and lumber.

RETAIL SERVICES — establishments providing services or entertainment, as opposed to products, to the general public for personal or household use. Retail service establishments may provide services such as eating and drinking, lodging, finance, insurance, real estate, personal services, motion pictures, amusement and recreational services, health care or educational/social services.

REVERSE FRONTAGE — see "lot, reverse frontage."

RIGHT-OF-WAY — a strip of land that is acquired by reservation, dedication, forced dedication, prescription or condemnation and is intended to be occupied by a road, crosswalk, railroad, electric transmission line, oil pipeline, gas pipeline, water line, sanitary sewer line, storm sewer line and/or other similar use; generally, the right of one to pass over the property of another.

ROOFLINE — the juncture of the roof and the perimeter wall of the structure.

ROOF SIGN — any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure and extending vertically above the highest portion of the roof.

ROOF SIGN, INTEGRAL — any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than 6 inches.

RUNOFF — the portion of rainfall, melted snow, irrigation water or any other liquid that flows across the ground surface and eventually is returned to streams.

SANITARY SEWAGE — any liquid waste containing animal or vegetable matter in suspension or solution. This includes water-carried waste resulting from the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers or any other human activity that produces putrescible material.

SANITARY SEWERS — pipes that carry domestic or commercial sanitary sewage. Storm, surface and groundwaters are not intentionally admitted into a sanitary sewer.

SATELLITE DISH ANTENNA — a device that is composed of a reflective surface that is solid, open mesh or bar-configured and is in the shape of a shallow dish, cone, or horn. Satellite dish antennas are used to transmit or receive radio or similar type signals to or from terrestrially based towers and/or earth orbiting satellites. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVRO's (Television Reception Only) and microwave antennas.

SCHOOL — any building or part thereof which is designed, constructed or used for education or instruction in any branch of knowledge.

SCHOOL, ELEMENTARY — any school that is licensed by the State and that meets the state requirements for elementary education.

SCHOOL, PRIVATE — a school that meets state requirements for elementary or secondary education and that does not secure the major part of its funding from any governmental agency.

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SCHOOL DISTRICT — a district that serves as a unit for state financing and administration of elementary and secondary schools.

SEASONAL, DWELLING UNIT — a dwelling unit that lacks one or more of the basic amenities or utilities required for all-year or all-weather occupancy.

SEASONAL STRUCTURE — a temporary covering erected over a recreational amenity, such as a swimming pool or a tennis court, so that its use may be extended through the cold weather months.

SEASONAL USE — a use carried on for only a part of the year, such as outdoor swimming pools or skiing.

SELF-SERVICE STORAGE FACILITY — a structure containing separate, individual and private storage spaces of varying sizes that are leased or rented on individual leases for varying periods of time.

SEMI-NUDE — a state of dress in which clothing covers no more than the genitals, the pubic region and the areola of the female breast. Although supporting straps or devices may cover additional parts of the body, such items shall not remove a body from the state of semi-nudity.

SEMI-PUBLIC BODY — any organization that operates as a nonprofit activity and serves a public purpose. Semi-public bodies include, but are not limited to, such organizations as noncommercial clubs, lodges, theater groups, recreational and neighborhood associations and schools.

SEPTIC TANK — a water-tight receptacle that receives sewage discharge from a building, sewer or part thereof. A septic tank is designed and constructed to permit the settling of solids from this liquid, the digestion of the organic matter and the discharge of the liquid portion into a disposal area.

SERVICES — establishments primarily engaged in providing assistance, as opposed to products, to individuals, business, industry, government and other enterprises. Service land uses include, but are not limited to, the following: hotels and other lodging places, personal, business, repair and amusement services; health, legal, engineering and other professional services; educational services and membership organizations.

SETBACK — the distance that must be maintained between all parts (except for walks and steps) of all buildings (except permitted accessory uses as stipulated) and a specified lot line or publicly held right-of-way. In this Chapter, this distance is sometimes expressed as a range between a minimum setback (i.e., the smallest distance that may exist between a relevant building and a specified lot line or publicly held right-of-way) and a maximum setback (i.e., the largest distance that may exist between a relevant building and a specified lot line or publicly held right-of-way). More often, this distance is expressed simply as a minimum setback (i.e., no maximum setback is given). There are five kinds of setbacks, which differ

only in that they are measured from different specified lot lines or publicly held right-of-ways.

- A. **Front Setback.** The distance that must be maintained between all parts (except for walks or steps) of all buildings (except permitted accessory uses as stipulated) and the front lot line or publicly held right-of-way. The area between the front lot line and the line formed by the main front of the principal building(s) is the front yard.
- B. **Side Setback** (this is applicable only to lots which are not corner lots). The distance that must be maintained between all parts (except for walks or steps) of all buildings (except permitted accessory uses as stipulated) and the side lot line on the side of the lot to which those parts are closest. The area between a side lot line and the line formed by the side of the principal building(s) that is closest to that side lot line is the side yard.
- C. **Rear Setback.** The distance that must be maintained between all parts (except for walks or steps) of all buildings (except permitted accessory uses as stipulated) and the rear lot line. The area between the rear lot line and the line formed by the rear of the principal building(s) is the rear yard.
- D. **Side Street Setback** (this is applicable only to corner lots). The distance that must be maintained between all parts (except for walks or steps) of all buildings (except permitted accessory uses as stipulated) and the side street lot line or publicly held right-of-way. The area between the side street lot line and the line formed by the side of the principal building(s) that is closest to the side street is the side street yard.
- E. **Non-Side Street Setback** (this is applicable only to corner lots). The distance that must be maintained between all parts (except for walks or steps) of all buildings (except permitted accessory uses as stipulated) and the non-side street lot line. The area between the non-side street lot line and the line formed by the side of the principal building(s) that is closest to the non-side street lot line is the non-side street yard.

If the sidewalks directly in front of any lot are not legally included as a part of that lot, then six feet shall be subtracted from that lot's minimum and maximum front setback requirements. If the sidewalks directly along the side street side of a corner lot are not legally included as a part of that lot, then 6 feet shall be subtracted from that lot's minimum and maximum side street setback requirements. These adjustments are to compensate for the setbacks that are already provided for the involved lot by the sidewalk property, and may not be interpreted as allowing the construction of a structure beyond the lot's legal boundaries.

SEWAGE — the total of organic waste and wastewater generated by residential, industrial and commercial establishments.

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SEWER — any pipe or conduit used to collect and carry away sewage or stormwater runoff from the generating source to treatment plants or receiving streams.

SEWER SYSTEM AND TREATMENT — devices for the collection, treatment and disposal of sewage.

SEWERAGE — all effluent carried by sewers, including sanitary sewage, industrial wastes, and stormwater runoff, the entire system of sewage collection, treatment and disposal.

SEXUAL ENCOUNTER CENTER — a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex.
- B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

SEXUALLY ORIENTED BUSINESS — an adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion-picture theater, adult theater, escort agency, nude model studio, sexual encounter center or tattoo or piercing shop.

SHADE TREE — a tree, usually deciduous, planted primarily for overhead canopy.

SHOPPING CENTER — a group of commercial establishments that is planned, constructed, and managed as a total entity and that has on-site customer and employee parking, provisions for the delivery of goods that are separate from customer accesses, aesthetic considerations, protection from the elements, landscaping and signage all in accordance with an approved plan.

SHOPPING MALL — a shopping center with stores on both sides of an enclosed or open pedestrian walkway.

SIDE YARD — see "yard, side."

SIDEWALK — a paved, surfaced or leveled area that is parallel and usually separate from the street. Sidewalks are used as pedestrian walkways.

SIDEWALK AREA — the portion of the right-of-way that lies between the edge of the right-of-way and the curb line on the same side of the roadway, regardless of whether or not a sidewalk actually exists.

SIGN — any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of, or

identify the purpose of a person or entity or to communicate information of any kind to the public.

SOIL EROSION AND SEDIMENT CONTROL PLAN — a plan that indicates necessary land treatment measures, including a schedule for installation, that will effectively minimize soil erosion and sedimentation.

SOLID WASTE — unwanted or discarded material that has an insufficient liquid content to be free flowing.

SOLID WASTE DISPOSAL — the ultimate disposition of solid waste that cannot be salvaged or recycled.

SPECIAL EXCEPTION USE — a use that is allowed in a particular zoning district subject to the approval of the zoning hearing board, as specified by Part 3 of this Chapter. Such uses are authorized by §603 of the Pennsylvania Municipalities Planning Code.

SPECIFIED ANATOMICAL AREAS — the male genitals, female genitals, female breasts or parts thereof.

SPECIFIED SEXUAL ACTIVITIES — this category includes all of the following:

- A. The fondling or other erotic touching of human genitals, pubic regions, buttocks, anuses or female breasts.
- B. Sex acts, actual or simulated, including intercourse, oral copulation or sodomy.
- C. Masturbation, actual or simulated.
- D. Excretory functions as part of or in connection with any of the activities set forth in subsections "A" through "C" above.

STALL — the parking space in which vehicles park.

STORM SEWER — a conduit that collects and transports runoff.

STORMWATER MANAGEMENT — the control and management of stormwater to minimize the detrimental effects of surface water runoff.

STREET — any vehicular way that is an existing state, county, or municipal roadway, is shown upon a plat approved pursuant to law; is approved by other official action or is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a planning board and the grant to such board of the power to review plats. A street includes all land between the street lines, no matter whether it's improved or unimproved.

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STREET, COLLECTOR — street that collects traffic from local streets and connects with minor and major arterials.

STREET, CUL-DE-SAC — street with a turnaround at the end and a single common ingress and egress.

STREET, DEAD-END — a street with a single common ingress and egress.

STREET FRONTAGE — the distance for which a lot line of a lot (or in the case of sign regulations, zone lot) adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.

STREET, LOCAL — a street designed to provide vehicular access to abutting property and to discourage through traffic.

STREET, LOOP — a local street that has its only ingress and egress at two points on the same collector street.

STREET, MAJOR ARTERIAL — a street with access control, channelized intersections, and restricted parking. A major arterial collects and distributes traffic to and from minor arterials.

STREET, MINOR ARTERIAL — a street that has signals at important intersections, that has stop signs on the side streets at less important intersections and that collects traffic from and distributes traffic to collector streets.

STREET, PAPER — a street that has never been built, but is shown on an approved plan, subdivision plat, tax map or official map.

STREET, PRIVATE — a street that has not been accepted by a municipality or any other governmental entity.

STRUCTURE — anything constructed or erected that was lawful prior to the adoption or amendment of a zoning ordinance, and whose use requires (either directly or indirectly) a fixed location on the land.

STRUCTURE, HEIGHT OF — the vertical measured distance from the adjacent finished grade level to the highest point of a structure.

SURFACE WATER — water on the earth's surface that is exposed to the atmosphere, such as rivers, lakes, streams and oceans.

SUSPENDED SIGN — a sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

TAVERN — an establishment used primarily for the serving of liquor by the drink to the general public, but where food and/or packaged liquors may also be served

or sold as an accessory use. Such establishments are licensed by the Pennsylvania Liquor Control Board.

TEMPORARY SIGN — any sign that is used only temporarily and is not permanently mounted. Regardless of any temporary characteristics they may have, residential signs shall not be classified as temporary signs for the purposes of this Chapter.

TEMPORARY USE — a use of a limited duration that is to be discontinued after the expiration of a time period. See Part 4, "Temporary Uses."

TRAFFIC GENERATOR — a use in a particular geographic area that is likely to attract substantial vehicular or pedestrian traffic into the area.

TRAILER — a structure that stands on wheels, is towed or hauled by another vehicle and is used for short-term human occupancy, temporary office space or carrying materials, goods and/or objects.

TRANSFER OF OWNERSHIP OR CONTROL — the sale, lease, or sublease of a property, building, or business, the transfer of securities which constitute a controlling interest in a property, building, or business or the establishment of a trust, gift, or similar legal device which transfers the ownership or control of a property, building, or business, excepting a transfer by bequest or other operation of law used upon the death of the person possessing the ownership or control.

USE — the purpose or activity for which land or buildings are designed, arranged, intended, occupied and/or maintained.

UTILITIES EASEMENT — the right-of-way acquired by a utility or governmental agency to locate utilities, including all types of pipelines, cables and towers.

VACANCY — a state of having no occupants. A vacant parcel of land, structure or part thereof is available and suitable for occupancy.

VARIANCE — permission to depart from the literal requirements of a zoning ordinance. See S§27-118, "Variances."

WALL SIGN — any sign attached parallel to, but within six inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building and which displays only one sign surface.

WAREHOUSE — a building used for the storage of goods and materials. This does not include "self-service storage facilities."

WINDOW SIGN — any sign, pictures, symbol or combination thereof designed to communicate information about an activity, business, commodity, event, sale or

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service that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

YARD — an open space that lies between the principal building or buildings and the nearest lot line.

YARD, FRONT — the area between the front lot line or right-of-way and the line formed by the front of the principal building(s).

YARD, NON-SIDE STREET (this is applicable only to corner lots) — the area between the non-side street lot line or right-of-way and the line formed by the side of the principal building(s) that is closest to the non-side street lot line.

YARD, REAR — the area between the rear lot line and the line formed by the rear of the principal building(s).

YARD, SIDE (this is applicable only to lots which are not corner lots) — the area between a side lot line and the line formed by the side of the principal building(s) that is closest to that side lot line.

YARD, SIDE STREET (this is applicable only to corner lots) — the area between the side street lot line or right-of-way and the line formed by the side of the principal building(s) that is closest to the side street.

ZERO LOT LINE — the location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line.

ZONE LOT — A parcel of land in single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage, and land use, and that can provide such yards and other open spaces as required by this Chapter's regulations.

ZONING — the delineation of districts within a municipality or county, and the establishment of regulations for each of these districts. These regulations may govern the use of land; lot sizes; the placement, spacing, size and character of buildings and more.

ZONING DISTRICT — a specifically designated area or district in a municipality within which uniform regulations and requirements govern the use, placement, spacing and size of land and buildings. See §§27-201 through 27-213.

ZONING DISTRICT MAP — see "Zoning Map."

ZONING HEARING BOARD — a multiple member board, appointed by the Philipsburg Borough Council, that hears appeals and challenges under §909.1(a) of the Pennsylvania Municipalities Planning Code. See Section 705, "The Zoning Hearing Board."

ZONING MAP — See §27-203, "Establishment of the Official Zoning Map."

ZONING OFFICER — the administrative officer designated to administer the zoning ordinance and issue zoning permits. See §27-701, "Zoning Officer."

ZONING PERMIT — See §27-115, "Zoning Permits."

(Ord. 984, 6/14/1999, Art. VIII; as amended by A.O.

PART 9

ZONING MAP AMENDMENTS

§27-901. Zoning Map Amendments.

1. Acknowledging that property located at 224 South Fourth Street belonging to Anthony and Lynda Mull is not part of the Borough's Historic District.

(Ord. 1004, 3/11/2002, §1)