

ORDINANCE 97-12

ZONING ORDINANCE FOR THE BOROUGH OF

JIM THORPE, PENNSYLVANIA

Ordinance completely amending the Borough of Jim Thorpe Zoning Ordinance adopted in 1968.

This Ordinance permits, prohibits, regulates and determines the uses of land, watercourses and other bodies of water; the size, height, bulk, location, erection, construction, repair, maintenance, alternation, razing, removal and uses of structures; areas and dimensions of land and bodies of water to be occupied by uses and structures, as well as areas, courts, yards and other open spaces and distances to be left unoccupied by uses and structures; and the density of population and intensity of uses; and further, the Ordinance contains provisions for special exceptions and variances to be administered by a Zoning Hearing Board; provisions for conditional uses to be allowed or denied by the Borough Council; provisions for administration and enforcement; and such other provisions as may be necessary to implement the requirements of the Ordinance.

Pursuant to the authority conferred by the Pennsylvania Municipalities Code State Act No. 247, of July 31, 1968, as amended by Act No. 93, of June 1, 1972, and Act 170, of December 21, 1988, the Borough Council of the borough of Jim Thorpe hereby ordains and enacts as follows:

ARTICLE I - GENERAL PROVISIONS

1.100 SHORT TITLE

This Ordinance shall be know and cited as the "Zoning Ordinance of the Borough of Jim Thorpe".

1.200 APPLICATION OF ORDINANCE

No building, structure or land shall be used or occupied, and no building or part thereof shall be erected, moved, enlarged or structurally altered unless in conformity with the regulations of this Ordinance.

1.300 THE ORDINANCE

This Ordinance is hereby adopted to promote public health, safety, morality and the general welfare, encourage the most appropriate use of land, conserve and stabilize the value of the property, provide adequate open spaces for light and air, and to prevent the spread of fire, prevent undue concentrations of population and lessen congestion on streets and highways.

It is the intent of this Ordinance to provide a well-balanced community by providing for coordinated and practical residential, commercial and industrial areas together with adequate police protection, vehicle parking and loading space, transportation, water, sewerage, schools, public grounds, and other public requirements.

STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES

Certain community development objectives are relevant to and form the basis of zoning regulations. These objectives are hereby adopted and made a part of this Ordinance. They are listed below:

- To preserve, enhance and protect existing residential, commercial, industrial, public and semi-public development from the intrusion of incompatible land uses.
- To preserve an open space and park system along streams.
- To continue the general pattern of single-family residential homes on individual lots as the predominant housing type within the Borough.
- To provide a variety of housing choices from low-density to high-density housing development.
- To protect the environment.
- To establish programs to promote the conservation, rehabilitation and improvement of all parts of the Borough.
- To establish facilities and provide uses to serve all age groups of varying social, economic, ethnic, and racial characteristics.

1.500

INTERPRETATION AND VALIDITY

1.501 INTERPRETATION

In the interpretation and the application of the provisions of this Ordinance, these provisions shall be held to be the minimum requirements for the promotion of the health, safety, morals and general welfare. It is not intended to interfere with or abrogate or annul other rules, regulations or ordinances, provided that where this Ordinance imposes greater restrictions upon the use of buildings or premises, or upon the height or bulk of a building, or requires larger open spaces, the provisions of this Ordinance are intended to prevail.

1.502 VALIDITY

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The Borough Council hereby declares that it would have passed this Ordinance and each section or part thereof

irrespective of the fact that any one or more sections or parts thereof be declared invalid.

1.503 REPEALER

The 1984 Zoning Ordinance of the Borough of Jim Thorpe and all amendments thereto are hereby repealed. All other existing ordinances or parts of ordinances in conflict with this Ordinance, to the extent of such conflict and no further, are hereby repealed.

1.600 EFFECTIVE DATE

This Ordinance shall take effect at the earliest date permitted by law subsequent to the adoption hereof.

ARTICLE II - GLOSSARY OF ZONING TERMS

2.100 APPLICATION AND INTERPRETATION

It is not intended that this Glossary include only words used or referred to in this Ordinance. The words are included in order to facilitate the interpretation of the Ordinance for administrative purposes and in the carrying out of duties by appropriate officers and by the Zoning Hearing Board.

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

- a. Words used in the present tense include the future tense.
- b. The word "person" includes one or more individuals, a profit or non-profit corporation, company, partnership, individual, association, society, or organization.
- c. The words "used" or "occupied" as applied to any land or building include the words "intended", "arranged", or "designed to be used or occupied."
- d. The word "building" includes a structure.
- e. The word "lot" includes a plot or parcel.
- f. The word "shall" is always mandatory.

2.200.1 DEFINITIONS OF TERMS

For the purposes of this Ordinance, the following words, terms, and phrases have the meaning herein indicated:

2.201 Abandonment: The non-use of a nonconforming use or building for a period of one (1) year.

2.202 Accessory Building: A subordinate building or a portion of the main building on a lot, the use of which is customarily incidental to that of the main or principal building.

2.203 Accessory Building, Temporary: An accessory building which is unattached to a foundation and is of the type which can be readily moved to another location. These include, but are not limited to, prefabricated metal tool sheds and children's play-houses.

2.204 Accessory Use: A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

2.205 Adult Commercial Uses: An adult store, adult entertainment cabaret, adult theater, and other adult uses as defined below :

(1) Adult Bookstore - Any establishment or place:

(i) Which has its principal stock in trade consisting of the following items:

- (A) Books, magazines or other periodicals, films or other forms of audio or visual representation which are distinguished or characterized by an emphasis on depiction, description or display of sexual activities or conduct or nudity;
 - (B) Instruments, devices or paraphernalia which are designed primarily for use in connection with specified sexual activities or conduct; and/or
- (ii) To which the public is permitted or invited wherein coin or slug-operated or electronically or mechanically controlled still or motion picture machines, projectors or other image producing devices are maintained to show images, with or without sound, where the images so displayed are distinguished or characterized by an emphasis on depiction, description or display of specified sexual activities or conduct or nudity.
- (2) Adult Entertainment Cabaret - A public or private establishment or place which features live sex, topless dancers, strippers, male or female impersonators, or similar entertainers, or any

similar establishment to which access is limited to persons eighteen (18) years of age or older. However, non-profit entities which infrequently feature such entertainers in programs for charitable fundraising purposes only, and which are not providing such entertainment as a main function or purpose of their existence, are exempted from the requirements of this Ordinance.

(3) Adult Theater - An enclosed building used regularly and routinely for presenting any form of audio and/or visual material, and in which a significant portion of the total presentation time measured over any consecutive twelve (12) month period is or will be devoted to the showing of material which is distinguished or characterized by emphasis on depiction, description or display of specified sexual activities or nudity.

(4) Other Adult Uses - Any business, activity or use, similar to or of the same general nature as the uses listed above.

(b) Definitions for describing Adult Commercial Uses:

(1) NUDITY: the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of

any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

(2) SPECIFIED SEXUAL ACTIVITIES:

(i) Engaging in sexual intercourse or deviate sexual conduct.

(ii) Appearing in a state of nudity.

(iii) Fondling or other erotic touching of human genitals, pubic area, buttock or female breast.

2.206 Agriculture: The raising and keeping of field, truck, and tree crops and all structures and activities customarily associated therewith.

2.207 Alley: A public thoroughfare which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

2.208 Alterations: As applied to a building or structure, means a change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

2.209 Alterations, Structural: Any change in the supporting member of a building, such as bearing walls, columns, beams, or girders.

- 2.210 Amendment: A change in use in any district which includes revisions to the zoning text and/or the official zoning map. The authority for any amendment lies solely with the Municipal Governing Body.
- 2.211 Animal Hospital: A building used for the treatment, housing, or boarding of small domestic animals such as dogs, cats, rabbits, and birds or fowl by a veterinarian.
- 2.212 Animal Husbandry: The feeding, breeding, management and sale of or the products of livestock, poultry, fur-bearing animals, honey bees, etc., not including household and farm pets, and all structures and activities, including the raising of livestock feed or pasturing customarily associated with the activity.
- 2.213 Appointing authority: The mayor in cities; the board of commissioners in counties; the council in incorporated towns and boroughs; the board of commissioners in townships of the first class; and the board of supervisors in townships of the second class; or as may be designated in the law providing for the form of government.
- 2.214 Area, Building: The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces, and steps.

- 2.215 Authority: A body politic and corporate created pursuant to the act of May 2, 1945 (P.L. 382, No. 164), known as the "Municipality Authorities Act of 1945."
- 2.216 Automobile Junk or Graveyard: Any place not enclosed within four walls and a roof where more than one automobile, which does not bear a current Pennsylvania State Inspection sticker and/or is not fit for immediate highway use, is stored or disassembled.
- 2.217 Area, Lot: The total area within the lot lines.
- 2.218 Basement: A story partly underground but having at least one half of its height above the average level of the adjoining ground. A basement shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five (5) feet or if used for business or dwelling purposes, other than a game or recreation room.
- 2.219 Bed and Breakfast: The use of a structure which includes the rental of overnight sleeping accommodations and bathroom access for a maximum of ten (10) guest rooms at any one time, and which does not provide any cooking facilities and may or may not provide meals to guests. This use shall only include a use renting facilities on a temporary basis and not as a residential establishment.

The use is distinct from a hotel, motel, boarding house or group care facility

- 2.220 Billboard: A panel-type sign upon which advertising matter of any character is printed, posted, or lettered; it may be either free-standing or attached to a surface of a building or other structure, and generally advertising products and services available on premises other than the premises on which the billboard is situated.
- 2.221 Boarding House: Any dwelling in which more than three persons, either individually or as families, are housed or lodged for hire with or without meals. A rooming house or a furnished room within a house shall be deemed a boarding house.
- 2.222 Building: Any structure having a roof supported by walls, and intended for shelter, housing or enclosure of persons, animals or chattel.
- 2.223 Building, Attached: Any building which has one or more side walls in common with any adjacent building.
- 2.224 Building, Detached: A building surrounded on all sides by open spaces on the same lot.
- 2.225 Building, Front Line Of: The line of the face of the building nearest the front line of the lot. This face includes sun parlors and covered porches, whether enclosed or unenclosed, but does not include steps.

- 2.226 Building, Height Of: The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip, and gambrel roofs.
- 2.227 Building Line: The line of a structure or building existing at the effective date of this Ordinance or the legally established line which determines the location of a future building or structure or portion thereof with respect to any lot line or street right-of-way line.
- 2.228 Buildings, Principal: A building in which is conducted the principal use of the lot on which it is located.
- 2.229 Carport: An open space for the storage of one or more vehicles in the same manner as a private garage, which may be covered by a roof support by columns or posts except that one or more walls may be the walls of the main building to which the carport is an accessory building or extension.
- 2.230 Cellar: A story party underground and having more than one half of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories.
- 2.231 Commercial Uses: Retail, office, banking and service establishments utilized for commerce and trade.

- 2.232 Commercial Uses: General: Retail, office, banking and service establishments utilized for commerce and trade of sufficient scale to serve the entire community.
- 2.233 Commercial Uses, Neighborhood: Small-scale retail and personal service establishments intended to serve the immediate neighborhood. Such uses include, but are not limited to, grocery stores, drug stores, soda fountains, shoemakers, tailors and dressmakers, dry-cleaning establishments, coin and service laundries, etc.
- 2.234 Commercial Uses, Regional: Are of sufficient scale to serve and attract a regional clientele.
- 2.235 Common Open Space: A parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents or the planned residential development, not including streets, off-street parking areas, and areas set aside for public facilities.
- 2.236 Comprehensive Plan: A Comprehensive Plan (overall program) consists of maps, charts, and textual matter, and indicates the recommendations of the planning commission for the continuing development of the municipality. The Comprehensive Plan includes, but is not limited to, the following related basic elements: a statement of objectives; a plan for land use; a plan to meet the housing needs of present residents and of those

individuals and families anticipated to reside in the municipality; a plan for the movement of people and goods; a plan for community facilities and utilities; a statement of the interrelationships among the various plan components; a discussion of short - and long-range plan implementation strategies; and a statement indicating the relationship of the existing and proposed development of the municipality to the existing and proposed development and plans in contiguous municipalities.

2.237 Conditional Use: A use permitted in a particular zoning district pursuant to the provisions in Article VI of the Municipalities Planning Code and this Ordinance.

2.238 Condominium: Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

2.239 Conversion: A change of any structure from the use or design for which it was erected or has been customarily used. Such conversions shall be subject to the use requirements of the zone in which they are located.

2.240 Conversions, Residential: Includes the redesign and conversion of existing residential structures into two

family and multi-family dwellings or the redesign of existing non-residential structures which are to be converted into residential use in their entirety or above the first floor.

- 2.241 Court: An unoccupied open space, other than a yard, on the lot with a building, which is bounded on two or more sides by the walls of such building.
- 2.242 Court, Inner: A court enclosed on all sides by exterior walls of a building or by exterior walls and lot lines on which walls are allowable.
- 2.243 Court, Outer: A court enclosed on not more than three sides by exterior walls and lot lines on which walls are allowable, with one side or end open to a street, driveway, alley or yard.
- 2.244 Coverage: That portion or percentage of the plot or lot area covered by buildings or other permanent structures.
- 2.245 Curb Level: The officially established grade of the curb in front of the midpoint of the lot.
- 2.246 Density: A measure of the number of the dwelling units which occupy, or may occupy, an area of land.
- 2.247 Density Factors: Numerical values applied to residential dwelling unit types for the purpose of computing permitted densities.
- 2.248 Density, Net Residential: The number of dwelling units in relation to the land area actually in use or proposed

to be used for residential purposes, exclusive of public rights-of-way, streets, sidewalks, parks, playgrounds, common open space, etc.

2.249 Density, Gross Residential: The number of dwelling units in relation to an area of land actually in use or proposed to be used for residential purposes, excluding public right-of-way.

2.250 Dwelling: A building designed or used as the living quarters for one or more families. The terms "dwelling", "one-family dwelling", "multiple dwelling", "two-family dwelling", or "dwelling group" shall not be deemed to include automobile court, bed and breakfast, rooming house, tourist home or hotel.

2.251 Dwelling Types:

(a) Multi-Family: A building designed and intended for occupancy by three or more families living independently of each other; each having their own cooking and sanitary facilities.

(b) Residential Conversion Unit: To be considered a conversion, any proposed alteration must be confined to the interior of an already existing structural shell. Any proposal to extend the sides or decrease the height of an existing structure shall not be considered a conversion and shall be required to meet the appropriate provisions

established in that District for that particular use.

- (c) Single-Family: A building arranged, designed and intended for occupancy by a single-family, containing separate utilities and capable of being recorded on a separate deed from adjoining structures or properties, whether detached or semi-detached.
- (d) Single-Family, Detached: A dwelling unit accommodating a single-family and having two (2) side yards.
- (e) Single-Family, Semi-Detached: Two dwelling units accommodating two families which are attached side by side through the use of a party wall, and have one side yard adjacent to each dwelling unit.
- (f) Two-Family: A building arranged, designed, intended for and occupied by two families living independently of each other; each having their own cooking and sanitary facilities.
- (g) Two-Family, Detached: Two dwelling units accommodating two families which are located one over the other, and having two (2) side yards.
- (h) Two-Family, Semi-Detached: Four dwelling units accommodating four families, two units of which are

located directly over the other two units, separated by a fire wall.

- (i) Townhouse (Row Dwelling): Three or more dwelling units accommodating three or more facilities, which are attached side by side through the use of common party walls, and which have side yards adjacent to each end unit. Individual dwelling units may range in height from one (1) to three (3) stories.
- (j) Garden Apartments: A complex of dwelling units located in a structure or structures two or three stories in height. Garden Apartments are characterized by moderate density and location on a tract or parcel providing a generous amount of open space, landscaped areas and recreational facilities for the use of the tenants. All of the rooms in a given dwelling unit are usually located on the same floor.
- (k) Apartment House: A complex of dwelling units located in a single structure. Apartment Houses are characterized by moderate to high density, and generally provide less open space per dwelling unit than garden apartments. All of the rooms in a given dwelling unit are usually located on the same floor. Low-rise Apartment Homes are structures one

(1) to three (3) stories high. Mid-rise Apartment Homes are structures six (6) or more stories high.

- 2.252 Dwelling Unit: A building or portion thereof providing complete housekeeping facilities for one family.
- 2.253 Dwelling Unit Area: The minimum or average square footage necessary to constitute a dwelling unit.
- 2.254 Family: One (1) or more persons who live together in one (1) dwelling unit and maintain a common household. A "Family" may consist of a single person or of two (2) or more persons, whether or not related by blood, marriage, or adoption. A "Family" may also include domestic servants, non-paying guests and up to (2) paying guests.
- 2.255 Farm: Any parcel of land containing ten (10) or more acres which is operated for gain in the raising of agricultural products, livestock, poultry, and dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used.
- 2.256 Flood Plain: a flood plain is the low area adjoining and including any water or drainage course or body of water subject to periodic flooding or over-flow, and which is usually delineated by the official Flood Plain Map issued by the United States Department of Housing and Urban Development supplemented by any flood plain mapping done by the United States Department of Agricultural Soil Conservation Service.

2.257 Floor Area of a Building: The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, excluding cellar and basement floor areas not devoted to the principal use. For residential buildings it shall include the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

2.258 Floor Area, Habitable: The aggregate of the horizontal areas of all rooms used for habitation, such as living room, dining room, kitchens and bedroom, but not including hallways, stairways, cellars, attics, service rooms or utility rooms, bathrooms, closets, nor unheated areas such as enclosed porches, nor rooms without at least one (1) window or skylight opening onto an outside yard or court. At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven (7) feet and floor area of that part of any room where the ceiling height is less than five (5) feet shall not be considered as part of the habitable floor area. The minimum total window area, measured between stops shall be ten (10) percent of the habitable floor area of such room.

2.259 Floor Area Ratio (FAR): The maximum allowable square footage of total floor area permitted for each square foot of land area, which is expressed as a ration between

said building floor space and the area of the lot it occupies.

- 2.260 Floor Area, Net Retail: All that space relegated to use by the customer and the retail employee to consummate retail sales; and to include display area used to indicate the variety of goods available for the customer, but not to include office space, storage space, and other general administrative areas.
- 2.261 Garage, Private: An enclosed or covered space for the storage of one or more self-propelled vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one (1) vehicle is leased to a non-resident of the premises.
- 2.262 Garage, Public: Any garage not a private garage and which is used for the storage, repair, rental, or servicing of vehicles or for the supplying of gasoline or oil to vehicles.
- 2.263 Gardening: See Home Gardening for definition.
- 2.264 Governing Body: The Council of the Borough of Jim Thorpe.
- 2.265 Grade, Established: The elevation of the center line of the public streets as officially established by appropriate public bodies or agencies.

- 2.266 Grade, Finished: The completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs relating thereto.
- 2.267 Group Care Facility, Large: A facility which provides resident services to seven (7) or more individuals who are being cared for by a residential supervisory staff. These individuals are handicapped, aged or disabled, and are undergoing rehabilitation, and are provided services to meet their needs. Large Group Care Facilities are licensed, supervised or funded by any Federal, State or County agency. Facilities for individuals suffering from alcohol or drug addiction who have not completed detoxification and medical rehabilitation or who currently use alcohol or illegal drugs shall not be considered Group Care Facilities.
- 2.268 Group Care Facility, Small: A facility which provides resident service in one dwelling unit to six (6) or fewer individuals who are being cared for by a family or residential supervisory staff under license, supervision or funding by any Federal, State or County agency. These individuals are handicapped, aged, disabled or in need of adult supervision and are provided service and supervision in accordance with their individual needs. Foster homes shall not be considered as small group care facilities. Facilities for individuals suffering from

alcohol or drug addiction who have not completed detoxification and medical rehabilitation or who currently use alcohol or illegal drugs shall not be considered Group Care Facilities.

2.269 Home Gardening: The cultivation of herbs, fruits, flowers or vegetables on a piece of ground adjoining the dwelling, excluding the keeping of livestock, and permitting the sale of produce raised thereon.

2.270 Home Occupation: The use of a dwelling or accessory building in the pursuit of an occupation by members of the family residing on the premises pursuant to the regulations outlined in Section 7.600.

2.271 Hospital: Unless otherwise specified, the term "hospital" shall be deemed to include sanitarium, sanatorium, preventorium, clinic, rest home, nursing home, convalescent home, and any other place for the diagnosis, treatment or other care of ailments, and shall be deemed to be limited to places used primarily for the diagnosis, treatment or other care of human ailments.

2.272 Hotel: A building containing rooms intended or designed to be used or which are used, rented, or hired out to be occupied or which are occupied for sleeping purposes by guests and where a general kitchen and dining room are usually provided within the building or in any accessory building.

- 2.273 Junk: Discarded materials, articles or things and including but not limited to, scrap metal; paper; rags; glass; containers; scrap wood or lumber; trailers; broken or discarded furniture or household equipment; broken, neglected, abandoned, or junked machinery and equipment; scrapped motor vehicles and parts thereof, including motors; bodies of motor vehicles and vehicles which are inoperable, unlicensed, and do not have a current and valid inspection sticker, etc.
- 2.274 Junk or Scrap Dealer: Any person engaged in the business of collecting, accumulating, buying, selling, storing, disassembling, treating or processing of scrap metal automobiles not fit for highway use, second hand building materials, rags, bottles, scrap paper or any "junk" as previously defined.
- 2.275 Junkyard and Scrapyard: An "automobile junk or graveyard" as previously defined, and any place where scrap metal, second hand building materials, rags, bottles, scrap paper or any "junk" as previously defined, is collected, accumulated, stored, disassembled, treated or processed.
- 2.276 Kennel: An establishment equipped with pens, yards, runways or other appurtenances specifically designed or intended for the breeding or boarding of dogs or other

animals with the intent of producing capital gain or profit.

2.277 Landfill: A lot or land or part thereof used primarily for the disposal of garbage, refuse, and other discarded materials including, but not limited to, solid and liquid waste materials resulting from industrial, commercial, agricultural, and residential activities.

The operation of a landfill normally consists of: 1) Depositing the discarded material in a planned, controlled manner; 2) compacting the discarded material in thin layers to reduce its volume; 3) covering the discarded material with a layer of earth; and 4) compacting the earth cover.

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

2.279 Landscape Area: The minimum square footage of lot area that is available for the use of the residents of a dwelling unit complex in which it is located, or a part of the required area of a commercial or industrial development. This area must be both unsurfaced and water

absorbent, and no more than one-third of this total space footage requirement may be made up of the area located within the minimum setback requirements for the front, side, or rear yards of the complex.

2.280 Lighting:

- a) Diffused: That form of lighting wherein the light passes from the source through a translucent cover or shade.
- b) Direct or Flood: That form of lighting wherein the source is visible and the light is distributed directly from it to the object to be illuminated.
- c) Indirect: That form of lighting wherein the light source is entirely hidden, the light being projected to a suitable reflector from which it is reflected to the object to be illuminated.

2.281 Line, Street: The dividing line between the street and the lot.

2.282 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.

2.283 Lot, Conforming: A parcel of land whose boundaries are established by an approved subdivision plat, or other lawful instruments whose area, width and other dimensions are not less than those required by this Ordinance for the Zoning District in which the said parcel is situated,

and which has its principal frontage on a street or other means of access determined, in accordance with the provisions of law, to be adequate for the issuance of a zoning permit for the development of a proposed use on such land.

2.284 Lot, Corner: A parcel of land at the junction of and abutting on two or more intersecting streets.

2.285 Lot, Interior: A lot other than a corner lot.

2.286 Lot Lines: The lines bounding a lot as defined herein. It includes the Front Lot Line which is the line abutting the street, also known as the Street Line.

2.287 Mobilehome: A transportable, single family dwelling intended for permanent occupancy, contained in one unit, or in two 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.

2.288 Mobilehome Lot: A parcel of land in a mobilehome park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobilehome.

2.289 Mobilehome Park: A parcel or contiguous parcels of land under single ownership which has been so designated,

planned and improved that it contains two (2) or more mobilehome lots for the placement of mobilehomes occupied for dwelling or sleeping purposes and for nontransistent use.

2.290 Motel: A roadside hotel (See "Hotel").

2.291 Nonconforming Lot: A lot the area or dimension of which was lawful prior to the adoption or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

2.292 Nonconforming Structure: A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in this Ordinance or amendments heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of this Ordinance or amendment, or prior to the application of this Ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

2.293 Nonconforming Use: A use, whether of land or of a structure, which does not comply with the applicable use provisions in this Ordinance or amendments heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this Ordinance or

amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation.

2.294 Nursing Home: Any dwelling where persons are housed or lodged and furnished with meals and nursing care for hire.

2.295 Off-Site Sewer Service: A sanitary sewage collection system in which sewage is carried from individual lots or dwelling units by a system of pipes to a central treatment and disposal plant which may be publicly or privately owned and operated.

2.296 On-Site Sewer Service: A single system of piping, tanks or other facilities serving only a single lot and disposing of sewage in whole or in part into the soil.

2.297 Open Area: An unoccupied and/or unpaved ground surface required to remain open to the sky on the same lot with the building.

2.298 Open Pit Mining: Open pit mining shall include all activity which removes from the surface or beneath the surface of the land some material mineral resource, natural resource, or other element of economic value, by means of mechanical excavation necessary to separate the desired material from an undesirable one; or to remove the strata or material which overlies or is above the desired material in its natural condition and position. Open pit mining includes, but is not limited to, the

excavation necessary to the extraction of: Sand, gravel, topsoil, limestone, sandstone, coal, clay, shale, and iron ore.

2.299 Open Space: Predominantly undeveloped land designated to remain permanently open in order to serve public purposes.

2.300 Planned Residential Development: An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, or combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, or type of dwelling, or use, density, or intensity, lot coverage, and required open space to the regulations established in any one residential district.

A Planned Residential Development may include but shall not be limited to: 1) Dwelling units of any dwelling type or configuration, or in any combination thereof; and 2) those nonresidential uses deemed to be appropriate for incorporation in the design of the Planned Residential Development.

2.301 Plat: The map or plan of a subdivision or land development, indicating the location and boundaries of individual properties, and whether preliminary or final.

2.302 Porch: An extension of a building, consisting of an area in excess of four (4) feet by five (5) feet, or twenty

(20) square feet, attached at any front, side or rear door, at any level or story of the building. Porches may be covered or uncovered, but they must be unenclosed except for screens to prevent the intrusion of insects.

2.303 Premises: Any lot, parcel or tract of land, and any building constructed thereon.

2.304 Profession: An occupation in which the advanced knowledge of some department of science, art or other learning is applied to the benefit of others. The application may be in teaching, advising or guiding one's clientele, or in serving their interests. Professions include, but are not limited to, Medicine, Law, Teaching, Pharmacy, and the like.

2.305 Property Line: A recorded boundary of a lot. However, any property line which abuts a "street" or other public or quasi-public way shall be measured from the right-of-way of such street, or public or quasi-public way.

2.306 Public Agency: A municipality, school board, authority, or other officially constituted body qualified to hold and administer publicly owned properties.

2.307 Public Grounds: Includes: (1) parks, playgrounds, trails, paths and other recreational areas and other public areas; (2) sites for schools, sewage treatment, refuse disposal and other publicly owned or operated

facilities; and (3) publicly owned or operated scenic and historic sites.

2.308 Public Hearing: A formal meeting held pursuant to public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with this act.

2.309 Public Meeting: A forum held pursuant to notice under the act of July 3, 1986 (P.L. 388, No. 84), known as the "Sunshine Act," and any amendments thereto.

2.310 Public Notice: Notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.

2.311 Public Uses: Includes municipal uses such as schools, public parks, fire stations, municipal buildings, essential public utilities, public recreational facilities, and easements for public streets, utilities and rights-of-way.

2.312 Public Uses, Quasi: Includes hospitals, nursing homes, churches, cemeteries, civic centers, and non-profit recreational facilities.

- 2.313 Residential Conversion Unit: See "Dwelling Types".
- 2.314 Resort Facility: A place generally equipped with lodging accommodations and facilities for active and passive recreation, to which people go for rest and relaxation, as on vacation.
- 2.315 Riding Academy: Any establishment where horses are kept for riding, driving, or stabling for compensation or incidental to the operation of any club, association, ranch or similar establishment.
- 2.316 Right-of-Way Line: (See Street Right-Of-Way Line.)
- 2.317 Screen Planting: A vegetative material of sufficient height and density to conceal from the view of property owners in adjoining residential districts the structures and uses on the premises on which the screen planting is located.
- 2.318 Seasonal Residence: A dwelling, cabin, lodge or summer house including mobilehomes, which is intended for occupancy less than one hundred eighty-two (182) days of the year.
- 2.319 Services, Essential: Uses, not enclosed within a building, necessary for the preservation of the public health and safety including, but not limited to, the erection, construction, alteration or maintenance of, by public utilities or governmental agencies, underground or overhead transmission systems, poles, wires, pipes,

cables fire alarm boxes, hydrants, or other similar equipment.

2.320 Service Station: Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of self-propelled vehicles and which may include facilities used or designated to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such vehicles.

2.321 Setback Line: The line within a property defining the required minimum distance between any building to be erected and the adjacent right-of-way. Such line shall be measured at right angles from the front street right-of-way line which abuts the property upon which said building is located and shall be parallel to said right-of-way line.

2.322 Shopping Center: A group of commercial establishments planned, developed, owned and managed as a unit which is related in location, size, and type of shops to the trade area that the unit serves. It provides on-site parking in definite relationship to the types and sizes of stores.

2.323 Sign: Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag,

badge or insignia of any government or government agency, or of any civic, charitable, religious, patriotic, or similar organization.

The major classifications of signs are: On-premises vs. Off-premises, and Attached vs. Free-standing Signs.

2.324 Signs, Attached: are those attached to a building, wall, fence, telephone pole or other structure whose primary purpose is not to display the sign.

2.325 Signs, Free-Standing: Are those attached to a pole, stanchion or other independent structure whose only purpose is to display the sign.

2.326 Signs, On-premises: Are signs displayed on the premises to which their message is pertinent.

2.327 Signs, Off-premises: Are signs displayed on premises other than those to which their message is pertinent. Off-premises signs may be advertising signs, directional signs or announcements.

2.328 Special Exception: A use permitted in a particular zoning district pursuant to the provisions of Articles VI and IX of the Municipalities Planning Code.

2.329 Stable, Private: An accessory building in which horses are kept for private use and not for hire, remuneration or sale.

2.330 Stable, Public: A building in which any horses are kept for remuneration, hire or sale.

- 2.331 Stoop: A covered or uncovered extension of a building, located at any front, side or rear door providing access to the first floor of said building. A stoop does not exceed four (4) feet by five (5) feet, or twenty (20) square feet in area, and is unenclosed.
- 2.332 Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between any floor and the ceiling next above it.
- 2.333 Story, Half: A story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than 2 (2) feet above the floor of such story.
- 2.334 Street: Includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct, and any other ways used or intended to be used by vehicular traffic or pedestrians, whether public or private.
- 2.335 Street, Center Line: The center of the surveyed street right-of-way, or-where not surveyed, the center of the travelled cartway.
- 2.336 Street Classification: For the purpose of this Ordinance, streets shall be classified as:
- 1) STREET, MAJOR--One of two (2) streets on which the majority of existing buildings or existing dwellings front and which is designed to carry

a greater amount of vehicular traffic than the other street.

- 2) STREET, MINOR--One of two (2) streets on which the minority of existing buildings or existing dwellings front, designed to carry the lesser amount of vehicular traffic than the other street.
- 3) STREET, MAJOR ARTERIAL--A street or road specifically designed to accommodate high traffic flow and generally carrying a high percentage of through traffic.
- 4) STREET, MAJOR COLLECTOR--A street or road which serves as a connecting facility usually between two (2) major arterial routes and having two (2) or more moving lanes.
- 5) STREET, LOCAL MINOR COLLECTOR--A street which serves the function of moving locally generated traffic from the interiors of neighborhood areas to the major collector streets and arterial streets.
- 6) STREET, RESIDENTIAL--A street designed to serve individual residential parcels and not generally carrying through traffic.

2.337 Street Grade: The officially established grade of the street upon which a lot fronts, or, in its absence, the

established grade of other streets upon which the lot abuts, at the midpoint of the frontage of the lot thereon. If there is no officially established grade, the existing grade of the street at such midpoint shall be taken as the street grade.

2.338 Street Right-Of-Way Line: the line dividing a lot from the full street right-of-way, not just the cartway. The word "street" shall include, but not be limited to, the words "road", "highway", "alley", and "thoroughfare".

2.339 Structure: Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

2.340 Subdivision: The division or re-division of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development: Provided, however, That the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

- 2.341 Swimming Pool:
- a) Private: Any reasonably permanent pool or open tank, not located within a completely enclosed building, and containing, or normally capable of containing, water to a depth at any point greater than one and one-half (1 - 1/2) feet. Farm ponds and/or lakes are not included, provided that swimming was not the primary purpose of their construction.
 - b) Public: A public bathing place shall mean any open or enclosed place, open to the public for amateur and professional swimming or recreative bathing, whether or not a fee is charged for admission or for the use thereof.
- 2.342 Theater: A building or part of a building devoted to the showing of moving pictures or theatrical productions, whether or not a fee is charged for admission thereto.
- 2.343 Theater, Outdoor Drive-In: An open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of moving pictures or theatrical productions, on a paid admission basis, to patrons seated in self-propelled vehicles or on outdoor seats.
- 2.344 Tourist Cabins: A group of buildings, including either separate cabins or a row of cabins, which:

a) Contain living and sleeping accommodations for transient occupancy; and

b) Have individual entrances.

2.345 Tourist Home: A dwelling in which overnight accommodations are provided or offered for transient guests for compensation.

2.346 Trailer: (See Travel Trailer.)

2.347 Trailer Camp: A tract of land:

a) Where two (2) or more trailers are parked; or

b) Which is used or held out for the purpose of supplying to the public a parking space for two (2) or more trailers.

2.348 Travel Trailer: A vehicular, portable structure built on a chassis, designed to be used as temporary dwelling for travel, recreational, and vacation uses, and permanently identified as a "Travel Trailer" or similarly by the manufacturer on the trailer. Unoccupied travel trailers do not constitute mobilehomes, as defined by this Ordinance.

2.349 Use: The specific purpose for which land or a building is designed, arranged, or intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use, special exception or conditional use.

- 2.350 Variance: Relief granted pursuant to the provisions of Articles VI and IX of the Municipalities Planning Code.
- 2.351 Variance, Bulk or Dimensional: Relief from specified Zoning Ordinance provisions which allows the appellant to build on a lot which does not meet minimum area, width or other dimensions required for the district in which it is situated.
- 2.352 Variance, Use: Relief from specified Zoning Ordinance provisions which allows the appellant to build or develop a use not provided as a permitted, special exception or conditional use for the district in which the proposed development site is situated.
- 2.353 Waste: Byproducts, expended material, and material that is abandoned or disposed or is otherwise discarded and all of which may include solid, liquid, semisolid or contained gaseous material generated by or otherwise resulting from municipal, residential, commercial, industrial, institutional, mining or agricultural operations or establishments and from community activities. Specific types of waste are those as defined in the Pennsylvania Solid Waste Management Act, 35 P.S. Sec. 6018.101 et seq. The term "waste" does not include materials that are directly recycled or reused on-site in an ongoing manufacturing or generating process without treatment, processing or release into the environment;

nor does it include materials from the slaughter and preparation of animals which are used as raw materials in the production or manufacture of products.

2.354 Waste Facility: Any land, structures and other appurtenances or improvements where waste disposal or processing is permitted or takes place or where waste is treated, stored or disposed.

2.355 Window: An opening to the outside other than a door which provides all or part of the required natural light, natural ventilation or both to an interior space. The glazed portion of a door in an exterior wall may be construed to be a window for the purpose of providing natural light.

2.356 Yard: An unoccupied space open to the sky, on the same lot with a building or structure.

2.357 Yard, Front: an open, unoccupied area between the street and the principal use building, and extending the full width of the lot, from one side lot line to the other. The depth of the front yard measured from the front line of the building to the street right-of-way line. For purposes of measuring front yard depth, any covered porch, whether enclosed or unenclosed by screens, shall be considered as part of the main building, and not as a projection into the front yard.

- 2.358 Yard, Rear: An open, unoccupied area between the principal use building and the rear lot line, and extending the full width of the lot, from one side lot line to the other. The depth of the rear yard is measured between the rear line of the building and the rear building line.
- 2.359 Yard, Side: An open, unoccupied space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.
- 2.360 Zoning: The designation of specified districts within a community or township, reserving them for certain uses together with limitations on lot size, heights of structures and other stipulated requirements.

ARTICLE III - ESTABLISHMENT OF ZONING DISTRICTS

3.100 NAMES OF ZONING DISTRICTS

The Borough of Jim Thorpe is divided into the following Districts:

- R-1 Low Density Residential
- R-2 Medium Density Residential
- R-3 Medium - High Density Residential
- R-4 High Density Residential
- C-I Neighborhood Commercial
- C-2 General Commercial
- I Industrial
- S Special

~~— P Parks~~

3.200 ZONING MAP

The locations and boundaries of these Districts are established as shown on the attached Zoning Map of the Borough of Jim Thorpe dated July, 1984. The Zoning Map is hereby made a part of this Ordinance, together with all future notations, references, and amendments.

3.300.1 DISTRICT BOUNDRIES

Where uncertainty exists as to boundaries of any Districts as shown on said Map, the following rule shall apply: District boundary lines are intended to follow or be parallel to the center line of streets, property or

lot lines, or natural boundaries where appropriate and applicable.

3.400 INTERPRETATION OF BOUNDARIES

In case of any uncertainty not addressed by Section 4.300 thru 4.1000 of this Ordinance, the Zoning Hearing Board shall interpret the intent of the Map as to the location of District boundaries.

ARTICLE IV - BASIC DISTRICT REGULATIONS

4.100 PERFORMANCE REQUIREMENTS

No use shall be permitted in any district if it is to be operated in such a manner as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive, radioactive, environmental or other hazard; noise or vibration; smoke, dust, dirt, persistent odor, solid waste or air, water, or other form of pollution; electrical, glare, or other disturbance which will adversely affect the surrounding area or premises, or be dangerous to public health or safety.

All uses shall be developed in a manner consistent with the preservation of the quality of the existing environment and of any natural amenities present on the site. Such uses shall provide for the preservation and the minimal disturbance of natural drainage areas, minimal grading and disturbance of the ground surface, the preservation of substantial stands of trees and forested areas, and the preservation of attractive views and any other natural features existing on the site.

All new uses or conversions shall comply with the following performance standards:

4.101

NOISE CONTROL

The sound pressure level of any use (other than the operation of emergency or time signals) shall not exceed, at any point on the boundary of any industrial district or within the boundary of any other district, the following limitations, subject to the following corrections: Subtract five (5) decibels for pulsating or periodic noises. Add five (5) decibels for noise sources operating less than twenty (20) percent of any one hour period.

Octave Band In Hertz Per Second	Maximum Permitted Sound Level In Decibels Along Any Industrial District Boundary
0 to 599	55
600 to 2,399	40
2,400 to 4,799	38
Above 4,800	38

Sound pressure level shall be measured according to the specifications published by the American Standard Association. The Pennsylvania Department of Health, Division of Occupational Health shall, upon request, make decibel readings and determine compliance with the above standards.

4.102 CONTROL OF SMOKE, DUST AND DIRT, FUMES, VAPORS,
GASES AND ODORS

Applicable state and federal pollution control laws shall govern the emission of smoke, dust, fly ash, fumes, vapors, gases or odors. Necessary tests to determine compliance with such laws shall be required.

4.103 STORAGE OF MATERIALS

- a) Highly flammable or explosive liquids, solids or gases shall be stored underground.
- b) No materials or wastes shall be deposited upon a lot in such form that they may be transferred off the lot by natural causes or forces, nor shall any substance which can contaminate a stream or watercourse or otherwise render such stream or watercourse undesirable as a source of water supply or recreation, or which will destroy aquatic life, be allowed to enter any stream or watercourse.
- c) All materials or wastes which might cause fumes or dust, or which constitute a fire hazard, or which may be edible or otherwise attractive to rodents or insects shall be

stored outdoors only if enclosed in containers which are adequate to eliminate such hazards.

4.104 GLARE AND HEAT CONTROL

No use shall carry on an operation that will produce heat or glare perceptible beyond the property line of the lot on which the operation is situated.

4.105 VIBRATION CONTROL

Machines or operations which cause vibrations shall be permitted, but in no case shall any such vibration be perceptible along the lot lines of any use without the aid of instruments.

4.106 RADIATION OR ELECTRICAL EMISSIONS, RADIOACTIVITY OR ELECTRICAL DISTURBANCE

Activities which may emit dangerous radioactivity beyond enclosed areas shall comply with state and federal laws and regulations. No electrical disturbances (except from domestic household appliances) shall be permitted to affect adversely, at any point, any equipment, other than that of the creator of such disturbance.

4.106 ELECTRIC, DIESEL, GAS OR OTHER POWER

Every use requiring power shall be so operated that any service lines, substation, etc., shall conform to the highest applicable safety requirements,

shall be constructed, installed, etc., so that they will be an integral part of the architectural features of the plant; or, if visible from abutting residential properties, shall be concealed by evergreen planting.

4.108

INDUSTRIAL WASTES AND SEWAGE

All methods of sewage and industrial waste treatment and disposal shall be approved by the state agency administering and/or enforcing applicable requirements of environmental laws and the engineering division of the sewer district receiving the effluent, and must be in accordance with all applicable regulations pertaining to treatment and disposal of sewage. The standards of such regulations, or the following, whichever is more restrictive, shall apply.

- a) There shall be no discharge of any toxic substance, gasoline, benzene, naphtha, fuel, oil, or other flammable or explosive liquid, solid or gas, any liquid having a temperature higher than 150 F or any matter containing any ashes, cinders, sand, mud, straw shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any solid or viscous substance capable of causing obstructions or

other interference with the proper operation of a sewage treatment plant, or any liquid having a pH power lower than 5.0 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel, or material which would be harmful to the treatment of sewage.

- b) Acidity and alkalinity of wastes shall be neutralized with a pH of 7.0 as a daily average on a volumetric basis with a temporary variation of pH 5.0 to 9.0.
- c) Wastes shall contain no cyanides and no halogens, and shall not contain more than 10 ppm of the following gases: hydrogen sulfide, sulfur dioxide and nitrogen dioxide.
- d) Wastes shall not contain any insoluble substances in excess of 10,000 ppm, or exceed a daily average of 500 ppm, or fail to pass a No. 8 sieve, or have a dimension greater than 0.25 inch.
- e) Wastes shall not have:
 - 1) A chlorine demand in excess of 15 ppm.
 - 2} Phenol in excess of 0.0005 ppm.

- 3) Grease, fats or oils, or any oily substance in excess of 100 ppm, or exceeding a daily average of 25 ppm.

4.109

SCREENING AND FENCING REQUIREMENTS

Adequate screening shall be provided along the side and rear boundaries of any manufacturing or commercial use, or of any off-street parking or loading area for more than five vehicles which abuts a residential or institutional use, or along the boundaries of any other use for which such screening is required.

Nonresidential Uses existing at the time of passage of this Ordinance which are not conducted in a completely enclosed building, and open construction yards and junk yards shall be screened in accordance with the provisions of this Section.

Such screening shall consist of a visual screen or obstruction of sufficient height, but not less than six feet high, to effectively obscure the area being screened from adjoining uses. Such a screen or obstruction shall consist of a suitable fence or wall or of appropriate planting materials such as shrubs, hedges or trees, located within a buffer strip having a minimum width of five feet. Such

fence, wall, or planting materials shall be maintained in good condition without any advertising thereon. Any space between such fence, wall or planting materials and adjoining lot lines shall be attractively surfaced and/or landscaped with grass, hardy shrubs or evergreen ground cover and maintained in good condition.

4.200

ENVIRONMENTAL PROTECTION REQUIREMENTS

Areas and proposed uses subject to special environmental or hazardous conditions or other site problems which may adversely affect the public health, safety or welfare shall be subject to the additional regulations set forth in Article V of this Ordinance. Such environmental or hazardous conditions or other site problems shall be identified by the Soil Interpretive Maps of the U.S. Soil Conservation Service, or by any other competent authority recognized by the Board.

Such environmental or hazardous conditions shall include a flood hazard, potential soil erosion or stream sedimentation, a seasonal or year-round water table within four feet of the ground surface, sections with a slope in excess of 15%, and any other conditions adversely affecting the public health, safety or welfare.

4.300

R-1 LOW DENSITY RESIDENTIAL DISTRICT

4.301 STATEMENT OF PURPOSE

It is the purpose of this District to provide an area primarily for low density residential development, and nonresidential activities in keeping with the predominantly residential character of the area.

4.302 PERMITTED USES

Land and buildings in the R-1 District may be used for the following purposes:

- a) Single-family detached dwellings;
- b) Home occupations (See Section 7.600).
- c) Accessory buildings, and uses customarily incidental to the above;

4.303 SPECIAL EXCEPTION USES

- a) Open space, parks, and recreational areas.
- b) Appropriate municipal uses.
- c) The raising of domestic livestock for non-commercial, non-agricultural use (See Section 6.506).

4.304 CONDITIONAL USES

- a) Cluster residential development subject to standards set forth in Section 7.200.

- b) Planned residential development, subject to standards set forth in Article VIII.

4.400 R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT

4.401 STATEMENT OF PURPOSE

It is the purpose of this District to provide an area of medium or moderate density residential uses in those areas where public services, including water and sewer service are available, together with compatible uses intended for the convenience of residents. It is the intention of this District to provide a judicious mixture of such uses without overcrowding the land or causing any use to suffer.

4.402 PERMITTED USES

Land and buildings in the R-2 District may be used for the following purposes:

- a) Single-family detached dwellings;
- b) Home occupations (See Section 7.600).
- c) Accessory buildings and uses customarily incidental to the above uses.

4.403 SPECIAL EXCEPTION USES

- a) Open space, parks, and recreational areas.
- b) Churches and other places of worship.

- c) Residential conversion units, in accordance with standards set forth in Section 7.400.
- d) Neighborhood commercial uses.
- e) Appropriate municipal uses.
- f) The raising of domestic livestock for non-commercial, non-agricultural use (See Section 6.506).

4.404

CONDITIONAL USES

- a) Mobile home parks, in accordance with standards set forth in Section 7.700.
- b) Light industrial uses.
- c) Townhouses and garden apartments, in accordance with standards set forth in Sections 7.1000 and 7.500.

4.500

R-3 MEDIUM - HIGH DENSITY RESIDENTIAL DISTRICT

4.501

STATEMENT OF PURPOSE

It is the purpose of the R-3 District to provide an area of residential development at medium to high density, depending on the availability of public services, including municipal sewer and water services to specific sites. Lot sizes may be decreased to allow for reconstruction of buildings compatible

with the area an lots which have these public services available.

4.502 SPECIAL EXCEPTION USES

Land and buildings in a R-3 District may be used for the following purposes:

- a) Single-family detached and semi-detached dwellings;
- b) Home occupations (See Section 7.600);
- c) Two-family residential dwellings;
- d) Bed and breakfast;
- e) Accessory buildings and use customarily incidental to the above uses.

4.503 SPECIAL EXCEPTION USES

- a) Neighborhood Commercial.
- b) Churches and other places of worship.
- c) Open space, parks, and recreational areas.
- d) Appropriate municipal uses.
- e) Residential conversion units, in accordance with standards set forth in Section 7.400.
- f) Large and small group care facilities.

4.504 CONDITIONAL USES

- a) Light industrial uses.
- b) Townhouses and garden apartments, in accordance with standards set forth in Sections 7.1000 and 7.500.

4.600 R-4 HIGH DENSITY RESIDENTIAL DISTRICT

4.601 STATEMENT OF PURPOSE

It is the purpose of the R-4 District to provide an area of high residential density integrated with other uses compatible with the residential character of the area, including municipal sewer and water service. Lot sizes may be decreased to allow for reconstruction of structures on lots where these services are available.

4.602 PERMITTED USES

Land and buildings in the R-4 District may be used for the following purposes:

- a) Single-family detached and semi-detached dwellings;
- b) Two-family dwellings;
- c) Neighborhood commercial uses;
- d) Home occupations; See Section 7.600;
- e) Bed and breakfast

f) Accessory buildings and structures customarily incidental to the above uses.

4.605 SPECIAL EXCEPTION USES

- a) General commercial uses.
- b) Light industrial uses.
- c) Appropriate municipal uses.
- d) Day care centers, nursery schools, and other specialized limited activity service centers.
- e) Large and small group care facilities.
- f) Residential conversion units, in accordance with standards set forth in Section 7.400.

4.604 CONDITIONAL USES

- a) Low-rise apartments, subject to standards set forth in Section 7.100.
- b) Townhouses and garden apartments, subject to standards set forth in Sections 7.1000 and 7.500.

4.700 C-1 NEIGHBORHOOD COMMERCIAL DISTRICT

4.701 STATEMENT OF PURPOSE

It is the purpose of the C-1 District to provide areas of limited commercial uses and establishments integrated and organized in such manner as to promote and provide a safe,

efficient, and attractive shopping area with provisions for off-street parking wherever possible.

4.702 PERMITTED USES

Land and buildings in the C-1 District may be used for the following purposes:

- a) Neighborhood commercial establishments;
- b) Medical and dental offices or clinics;
- c) Single-family detached and semi-detached dwellings;
- d) Two-family dwellings;
- e) Bed and breakfast;
- f) Off-premises signs.

4.703 SPECIAL EXCEPTION USES

- a) Automobile service stations, provided that any and all repairs are performed within the enclosed main structure, and that ample off-street parking is available for all patrons.
- b) Banks and financial offices.
- c) Restaurants.
- d) Boarding houses.
- e) Churches and other places of worship.
- f) General commercial and large scale retail uses.

- g) Conversions.
- h) Light industrial uses.
- i) Large and small group care facilities.
- j) Adult commercial uses.

4.800 C-2 GENERAL COMMERCIAL DISTRICT

4.801 STATEMENT OF PURPOSE

It is the purpose of the C-2 District to provide for areas of integration of high density residential uses and general commercial uses in an orderly and harmonious fashion. It is intended to provide for a district of integrated civic and commercial uses while encouraging the maintenance and preservation of the historic features of the area. Lot sizes may be reduced to provide for reconstruction, consistent with existing structures, where essential services such as municipal water and sewer facilities are available.

4.802 PERMITTED USES

Land and buildings in the C-2 District may be used for the following purposes:

- a) General commercial uses;

- b) Appropriate municipal and other public uses, including county government offices;
- c) Art, music, dance and other cultural studios;
- d) Theaters;
- e) Restaurants;
- f) Clubs and lodges for fraternal, youth and other social organizations;
- g) Bed and breakfast;
- h) Conversions;
- i) Off-premises signs;
- j) Accessory structures;
- k) Combinations of the above uses.

4.803 SPECIAL EXCEPTION USES

- a) Single-family detached dwellings.
- b) Automobile service stations, as per Section 7.800.
- c) Large and small group care facilities.

4.804 CONDITIONAL USES

- a) Light industrial uses.
- b) Rowhouses and townhouses, subject to standards set forth in Section 7.1000.
- c) Low-rise apartment houses, subject to standards set forth in Section 7.1000.

4.900

I - INDUSTRIAL DISTRICT

4.901 STATEMENT OF PURPOSE

It is the intention of the I District to provide for an area of industrial development separate and identifiable from the residential areas of the community where light industrial and general commercial development may be specifically encouraged.

4.902 PERMITTED USES

Land used and buildings on the I District may be used for the following purposes;

- a) Large-scale general commercial uses;
- b) Wholesale, trucking, warehousing and distributing activities;
- c) Research activities;
- d) Light industrial uses;
- e) Assembly and manufacturing plants;
- f) Motor vehicle repair garages;
- g) Building, plumbing, masonry and similar trade supply or retail uses;
- h) Accessory structures customarily incidental to the above uses;
- i) Appropriate municipal uses.

4.903 CONDITIONAL USES

- a) Regional Commercial Uses;
- b) Waste facility;
- c) Junkyard.

4.1000 S - SPECIAL DISTRICT

4.1001 STATEMENT OF PURPOSE

It is the purpose of the S District to allow use of the land in a manner which will not detract from the natural setting and recreational public use of the Mauch Chunk Watershed. For this reason development of the area will be restricted to reduce the probability of pollution.

4.1002 PERMITTED USES

Land in the S District may be used for the following purposes:

- a) Open space conservation areas and uses.
- b) Public and privately owned parks and recreation areas.
- c) Single-family detached dwellings.
- d) Accessory structures customarily incidental to the above uses in accordance with the standards set forth in Section 6.500.
- e) Home occupations (See Section 7.600).

4.1003

SPECIAL EXCEPTION USES

- a) The raising of domestic livestock for non-commercial, non-agricultural use in accordance with standards set forth in Section 6.507.

R-1 DISTRICT
Area, Yard, And Height Regulations

Single Family Detached DwellingMunicipal Uses

	<u>On-Site Sewage Disposal</u>	<u>Public Or Community Sewage Disposal & On-Site Water Supply</u>	<u>Public Or Community Sewage Disposal & Public Or Community Water Supply</u>	<u>On-Site Sewage Disposal</u>	<u>Public Or Community Sewage Disposal & On-Site Water Supply</u>	<u>Public Or Community Sewage Disposal & Public Or Community Water Supply</u>
<u>Maximum Permitted</u>						
Building Height	35 Ft. (2.5 Stories)	35 Ft. (2.5 Stories)	35 Ft. (2.5 Stories)	35 Ft.	35 Ft.	35 Ft.
Lot Coverage	20%	20%	20%	25%	25%	25%
Paved Area	10%	10%	10%	15%	15%	15%
<u>Minimum Requirements</u>						
Lot Size	1 Acre	20,000 Sq.Ft.	12,000 Sq.Ft.	2 Acres	60,000 Sq.Ft.	1 Acre
Lot Width						
At Street Line	100 Ft.	75 Ft.	55 Ft.	150 Ft.	150 Ft.	150 Ft.
At Building Setback Line	150 Ft.	100 Ft.	70 Ft.	200 Ft.	175 Ft.	150 Ft.
Lot Depth	200 Ft.	150 Ft.	120 Ft.	200 Ft.	200 Ft.	200 Ft.
Building Setback Line	40 Ft.	40 Ft.	40 Ft.	50 Ft.	50 Ft.	50 Ft.
Side Yard						
Total	50 Ft.	40 Ft.	20 Ft.	100 Ft.	100 Ft.	100 Ft.
One Side	20 Ft.	15 Ft.	10 Ft.	50 Ft.	50 Ft.	50 Ft.
Rear Yard	50 Ft.	30 Ft.	30 Ft.	50 Ft.	50 Ft.	50 Ft.

R-2 DISTRICT
Area, Yard, and Height Regulations

Single Family Detached Dwelling

	<u>On-Site Sewage Disposal</u>	<u>Public Or Community Sewage Disposal & On-Site Water Supply</u>	<u>Public Or Community Sewage Disposal or Community Water Supply</u>
<u>Maximum Permitted</u>			
Building Height	35 Ft.	35 Ft.	35 Ft.
Stories	2.5	2.5	2.5
Lot Coverage	30%	30%	30%
Paved Area	10%	10%	10%
<u>Minimum Requirements</u>			
Lot Size	1 Acre	20,000 Sq.Ft.	10,000 Sq.Ft.
Lot Width			
At Street Line	90 Ft.	75 Ft.	50 Ft.
At Building Setback Line	100 Ft.	80 Ft.	50 Ft.
Lot Depth	200 Ft.	150 Ft.	100 Ft.
Building Setback Line	30 Ft.	30 Ft.	15 Ft.
Side Yard			
Total	30 Ft.	20 Ft.	14 Ft.
One Side	20 Ft.	15 Ft.	10 Ft.
Rear Yard	30 Ft.	30 Ft.	15 Ft.

These are minimum requirements. Larger lot sizes may be required by the Commonwealth or by the Borough Sewage Enforcement Officer as a result of soil percolation tests.

Townhouses in accordance with standards established in Section 7.1000
Garden Apartments in accordance with standards established in Section 7.500
Mobilehome Parks in accordance with standards established in Section 7.700

R-3 DISTRICT
Area, Yard, and Height Regulations

	<u>Single Family Detached Dwelling</u>	<u>Single Family Semi-Detached & Detached Two Family Dwelling</u>	<u>Multi-Family Dwelling</u>	<u>Non-Resi- dential Use</u>
<u>Maximum Permitted</u>				
Building Height	35 Ft.	40 Ft.	40 Ft.	40 Ft.
Stories	2.5 Stories	3 Stories	3 Stories	3 Stories
Lot Coverage	40%	40%	40%	60%
Paved Area	10%	10%	10%	10%
<u>Minimum Requirements</u>				
Lot Size	4,800	7,200	8,000 or 2,000 per d.u. Whichever is Greater	10,000
Lot Width				
At Street Line	25 Ft.	50 Ft.	60 Ft.	80 Ft.
At Building Setback Line	25 Ft.	50 Ft.	60 Ft.	80 Ft.
Lot Depth	120 Ft.	120 Ft.	120 Ft.	120 Ft.
Building Setback Line	0	0	0	0
Side Yard				
Total	6 Ft.	6 Ft.	6 Ft.	10 Ft.
One Side	6 Ft.	6 Ft.	6 Ft.	10 Ft.
Rear Yard	15 Ft.	15 Ft.	15 Ft.	15 Ft.

Townhouses in accordance with standards established in Section 7.1000

Garden Apartments in accordance with standards established in Section 7.500

R-4 DISTRICT
Area, Yard, and Height Regulations

	<u>Single Family Detached Dwelling</u>	<u>Single Family Semi-Detached & Detached Two Family Dwelling</u>	<u>Multi-Family Dwelling</u>	<u>Non-Resi- dential Use</u>
<u>Maximum Permitted</u>				
Building Height	35 Ft.	40 Ft.	70 Ft.	70 Ft.
Stories	2.5 Stories	3 Stories	5 Stories	5 Stories
Lot Coverage				
Paved Area	40%	40%	50%	60%
<u>Minimum Requirements</u>				
Lot Size	4,800	7,200	10,000 or 2,000 per d.u. Whichever is Greater	10,000
Lot Width				
At Street Line	25 Ft.	50 Ft.	75 Ft.	80 Ft.
At Building Setback Line	25 Ft.	50 Ft.	75 Ft.	80 Ft.
Lot Depth	120 Ft.	120 Ft.	120 Ft.	120 Ft.
Building Setback Line	0	0	0	0
Side Yard				
Total	6 Ft.	6 Ft.	6 Ft.	10 Ft.
One Side	6 Ft.	6 Ft.	6 Ft.	5 Ft.
Rear Yard	15 Ft.	15 Ft.	25 Ft.	15 Ft.

Townhouses in accordance with standards set forth in Section 7.1000

Garden Apartments in accordance with standards set forth in Section 7.500

C-1 DISTRICT
Area, Yard, and Height Regulations

	<u>Single Family Detached Dwelling</u>	<u>Single Family Semi-Detached & Detached Two Family Dwelling</u>	<u>Multi-Family Dwelling</u>	<u>Non-Resi- dential Use</u>
<u>Maximum Permitted</u>				
Building Height	35 Ft.	35 Ft.	35 Ft.	35 Ft.
Stories	2.5 Stories	3 Stories	2.5 Stories	2.5 Stories
Lot Coverage	40%	40%	50%	60%
Paved Area	10%	10%	10%	10%
<u>Minimum Requirements</u>				
Lot Size	4,800	7,200	8,000	10,000
Lot Width				
At Street Line	25 Ft.	50 Ft.	60 Ft.	80 Ft.
At Building Setback Line	25 Ft.	50 Ft.	60 Ft.	80 Ft.
Lot Depth	120 Ft.	120 Ft.	120 Ft.	120 Ft.
Building Setback Line	40 Ft.	40 Ft.	40 Ft.	40 Ft.
Side Yard				
Total	6 Ft.	6 Ft.	6 Ft.	10 Ft.
One Side	6 Ft.	6 Ft.	6 Ft.	5 Ft.
Rear Yard	15 Ft.	15 Ft.	15 Ft.	20 Ft.

C-2 DISTRICT
Area, Yard, and Height Regulations

	<u>Single-Family Detached</u>	<u>Non-Residential Uses</u>
<u>Maximum Permitted</u>		
Building Height	35 Ft.	50 Ft.
Stories	2.5 Stories	4 Stories
Lot Coverage	40%	60%
Paved Area	10%	10%
<u>Minimum Requirements</u>		
Lot Size	4,800	10,000
Lot Width		
At Street Line	25 Ft.	80 Ft.
At Building Setback Line	25 Ft.	80 Ft.
Lot Depth	120 Ft.	120 Ft.
Building Setback Line	0	0
Side Yard		
Total	6 Ft.	20 Ft.
One Side	6 Ft.	5 Ft.
Rear Yard	15 Ft.	20 Ft.

SPECIAL DISTRICT
Area, Yard, and Height Regulations
Single-Family Detached Dwelling

	<u>On-Site Sewage Disposal *</u>	<u>Public Or Community Sewage Disposal And On-Site Water Supply</u>	<u>Public Or Community Sewage Disposal And Public Or Community Water Supply</u>
<u>Maximum Permitted</u>			
Building Height	35 Ft.	35 Ft.	35 Ft.
Lot Coverage	20%	20%	20%
Paved Area	10%	10%	10%
<u>Minimum Requirements</u>			
Lot Size	One Acre	20,000	12,000
Lot Width			
At Street Line	100 Ft.	75 Ft.	55 Ft.
At Building Setback Line	150 Ft.	100 Ft.	70 Ft.
Lot Depth	200 Ft.	150 Ft.	120 Ft.
Building Setback Line	40 Ft.	40 Ft.	40 Ft.
Side Yard			
Total	50 Ft.	40 Ft.	20 Ft.
One Side	20 Ft.	15 Ft.	10 Ft.
Rear Yard	50 Ft.	30 Ft.	30 Ft.
20 Ft.			

INDUSTRIAL DISTRICT
Area, Yard, and Height Regulations

Maximum Permitted

Building Height	50 Ft.
Stories	3 Stories
Lot Coverage	40%
Paved Area	10%

Minimum Requirements

Lot Size	60,000
Lot Width	
At Street Line	150 Ft.
At Building Setback Line	175 Ft.
Lot Depth	200 Ft.
Building Setback Line	40 Ft.
Side Yards	
Total	100 Ft.
One Side	50 Ft.
Rear Yard	50 Ft.

ARTICLE V - NON-CONFORMITIES

5.100

INTENT

Within the districts established by this Ordinance or amendments that may later be adopted there exist:

- a) lots,
- b) structures,
- c) uses of land and structures, and
- d) characteristics of use

which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed; however, non-conformities shall not be enlarged upon, expanded or extended, except as hereinafter provided.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner.

Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

5.200

REGISTRATION

Within sixty (60) days following upon the effective date of this Ordinance, the owner of any non-conforming lot or structure, or the proprietor of any non-conforming use, may come forward and register said non-conforming lot, structure or use with the Zoning Official of the Borough of Jim Thorpe, who shall maintain record of all such non-conformities by lot and block number, for use in the administration and enforcement of this Ordinance, and as matter of public information. The Zoning Official shall also issue a Certificate of Non-conformity to the owner of the premises or proprietor of the use in question. All points of non-conformance with the regulations of this Ordinance shall be clearly set forth both in the records of the Zoning Official and in the Certificate of Non-conformity issued for each use or premise.

5.300

NON-CONFORMING LOTS OF RECORD

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of

record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or front, rear or sideyards that are generally applicable to the district, providing the lot meets the standards of the ordinance in effect prior to this one.

If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Ordinance.

5.400 NON-CONFORMING USES OF LAND (OR LAND WITH MINOR STRUCTURES ONLY)

Where at the time of passage of this Ordinance lawful use of open land exists in non-conforming signs, billboards, outdoor storage areas and similar non-conforming use not permitted under the regulations imposed by this Ordinance, the use may be continued so long as it remains otherwise lawful, provided:

- a) No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
- b) No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance;
- c) If any such non-conforming use of land is discontinued and abandoned for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located;
- d) No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such non-conforming use of land.

NON-CONFORMING STRUCTURES

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a) Enlargement - A non-conforming structure may not be enlarged by more than 50 per cent of its existing floor area. Such enlargement shall not exceed the maximum height or maximum building coverage requirements for the district in which such non-conforming structure is located.
- b) Restoration -
 - 1) A non-conforming structure that has been damaged or destroyed by fire, windstorm, lightning or a similar cause deemed to be no fault of the owner may be rebuilt to the same dimensions, or others which are deemed less non-conforming by the Zoning Hearing Board.
 - 2) No rebuilding shall be undertaken as provided herein until plans for rebuilding have been presented and approved by the Zoning Official,

or by the Zoning Hearing Board when a change in building dimensions is requested. Approval shall be for the same use or for other use permitted in the district.

3) All permits and approvals required for rebuilding the structure must be obtained within one year from the date of damage or destruction.

c) Removal - Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

5.600

NON-CONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION

If lawful use involving principal use or major structures, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

a) No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged by more than 50 per cent of its existing floor area. Such enlargement shall not exceed the maximum

height or maximum building coverage requirements set forth in Schedule II for the district in which such structure devoted to non-conforming use is located;

- b) Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building;
- c) If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may as a special exception be changed to another non-conforming use provided that the Zoning Hearing Board, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Zoning Hearing Board may require appropriate conditions and safeguards in accord with the provisions of this Ordinance;
- d) Any structure, or structure and land in combination, in or on which a con-conforming

use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed;

e) When a non-conforming use of a structure, or structure and premises in combination, is discontinued and abandoned for twelve (12) consecutive months (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located;

f) When a structure housing a non-conforming use has been damaged or destroyed by fire, windstorm, lightning or a similar cause deemed to be no fault of the owner, such structure may be rebuilt to its previous dimensions, or dimensions which conform to district regulations, as long as the structure is occupied by the same use, or a use which is less non-conforming for the district in which it is located.

5.700 REPAIRS AND MAINTENANCE

On any non-conforming structure or portion of a structure containing a non-conforming use, all necessary repairs may be made, together with all work necessary to maintain such structure in decent, safe and sanitary condition.

Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

5.800 USES UNDER SPECIAL EXCEPTION PROVISIONS NOT NON-CONFORMING USES

Any use which is permitted as a special exception in a district under the terms of this Ordinance (other than a change through Zoning Hearing Board action from a non-conforming use to another use not generally permitted in the district) shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

ARTICLE VI - SUPPLEMENTARY REGULATIONS

6.100 SIGNS

6.101 ERECTION AND MAINTENANCE OF SIGNS

Signs may be erected, altered, replaced and maintained only when in compliance with the provisions of this Article and any and all other Ordinances and regulations relating to the erection, alteration, replacement or maintenance of signs and similar devices.

6.102 ON-PREMISES SIGNS

In all districts, only those signs, billboards, advertising sign boards and business identification signs bearing the name of the occupant, or referring directly to services offered or products made, sold, or displayed on the premises shall be permitted, except as otherwise noted herein. Such signs shall comply with all other requirements, as stated herein, for the district in which they are erected.

a) Signs advertising the sale or rental of the premises upon which they are erected, when erected by the owner or broker or any other person interested in the sale or rental of such premises, may be

erected and maintained, provided (1) The size of any such sign is not in excess of six (6) square feet; and (2) Not more than two (2) signs are placed upon any property in single and separate ownership, unless such property fronts upon more than one street, in which event two (2) such signs may be erected on each frontage.

b) Signs bearing the word "sold" or the word "rented" with the name of the persons effecting the sale or rental may be erected and maintained provided the conditions in sub-section 6.101 herein are complied with.

c) Signs of mechanics, painters, and other artisans may be erected and maintained during the period such persons are performing work on the premises on which such signs are erected, provided: (1) The size thereof is not in excess of twelve (12) square feet; and (2) Such signs are removed promptly upon completion of the work.

- d) Trespassing signs, or signs indicating the private nature of a driveway or property provided that a size of any sign shall not exceed two (2) square feet.
- e) Signs of schools, colleges, churches, hospitals, sanitariums, or other institutions of a similar nature may be erected and maintained provided: (1) The size of any such sign is not in excess of forty (40) square feet; and (2) Not more than two (2) signs are placed on a property in single and separate ownership, unless such property fronts upon more than one street, in which event two (2) such signs may be erected on each frontage.
- f) Signs advertising home occupations shall not be larger than twelve (12) inches by twenty-four (24) inches, and may include the name, occupation, and logotype or trade mark, if appropriate, of the practitioner. Such signs shall not be illuminated, with the exception of medical offices during the hours such

offices are open for the care of patients.

- g) Business identification signs bearing the name of the occupant and products manufactured, processed, sold or displayed on the premises may be erected and maintained on the premises in commercial and industrial districts. The size of business identification signs shall not exceed in number of square feet the number which is the same as the front width of the principal building on the lot and it shall not exceed seventy-five (75) square feet in area in any event even if the front width of the principal building exceeds seventy-five (75') feet. For lots without any building, the same standard and limitation shall apply, but the square footage limitation shall be based upon the lot frontage width instead because there is no building width amount to use as a square footage standard.
- h) Advertising painted upon, or displayed upon, a barn or other building or structure shall be regarded as an

advertising sign board and the regulations pertaining thereto shall apply.

6.103

OFF-PREMISES SIGNS

When permitted in a zoning district, off-premises signs are subject to the following provisions:

- a) There shall be a minimum distance of three hundred (300) feet between off-premises signs.
- b) Off-premises signs shall not be permitted within one hundred (100) feet of the Parks or Special Districts, unless the advertising surface of such sign is not visible therefrom, in which instance they shall be no closer than fifty (50) feet to such district.
- c) Off-premises signs shall not be permitted within one hundred (100) feet of any residential use, regardless of the district in which it is proposed to be located.
- d) The surface of any off-premises sign shall not exceed fourteen (14) feet in height, forty-eight (48) feet in length, and six hundred seventy-two (672) square

feet in area, except that the total area of any such sign shall not exceed one (1) square foot for each two (2) feet of lineal lot frontage.

- e) The surface area of an off-premises sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. In computing the surface area of a multi-faced sign, only one side shall be considered provided all faces are identical. Frames and structural members not bearing advertising matter or not in the form of a symbol shall not be included in the computation of surface area.
- f) Off-premises signs shall not exceed thirty-five (35) feet in height as measured from the curb of the roadway except as limited by Section 6.I04f.
- g) Off-premises signs shall meet the setback requirements for non-residential uses in any district in which they are allowed.

- h) No sign, other than an official traffic sign or street name sign, may be erected within right-of-way lines of any street, unless authorized by the Borough Council.
- i) Off-premises signs shall be subject to all other requirements of this ordinance to the extent such requirements are not inconsistent with those stated above in this Section 6.103.

6.104

GENERAL REGULATIONS FOR ALL SIGNS

- a) Signs must be constructed of durable material, maintained in good condition, and not allowed to become dilapidated.
- b) No sign shall be placed in such a position that it will cause danger to traffic on a street by obscuring the view.
- c) No animated, sequential, flashing or oscillating signs shall be permitted in any district. Any sign by reason of its intensity, color, location, or movement that may interfere with traffic lights, signals or other controls, or abrogate public safety shall not be permitted in any district. Any signs which make use

of words such as "Stop", "Look", "One-Way", "Danger", "Yield", or any similar words, phrases, symbols, or characters, in such manner as to interfere with, mislead, or confuse traffic shall not be permitted in any district.

- d) No sign shall project over a public sidewalk area more than eighteen (18) inches.
- e) Clearance beneath overhead signs shall be at least nine (9) feet measured from the ground or pavement to the bottom-most part of the sign.
- f) No portion of a sign shall be positioned in a manner that exceeds the height of any primary structure on the property on which it is located.
- g) No signs shall be erected or maintained so as to prevent free ingress or egress from any door, window or fire escape, or so as to prevent free access from one part of a roof to any other part. No sign of any kind shall be attached to a stand-pipe or fire escape.

- h) The main supporting structure of all free-standing signs shall not be located closer than ten (10) feet to any property line, except for official traffic signs or other governmental signs. All free-standing advertising signs shall conform to the side yard, front yard, and rear yard requirements established for principal buildings in the district in which the sign is located.
- i) A permit shall be required for the erection or alteration of panel type signs or advertising sign boards, and business identification signs.
- j) Each sign shall be removed when the circumstances leading to erection no longer apply.

6.200 OFF-STREET PARKING AND LOADING

6.201 OFF-STREET PARKING

6.201.1 GENERAL REQUIREMENT

In all districts, off-street parking spaces shall be provided as set forth below, whenever any building is erected or

enlarged. The number of parking spaces required for mixed uses shall be the sum of the spaces required for individual uses computed separately. Such spaces shall have a net area of 180 square feet (9 feet by 20 feet) per individual parking stall; however, the total parking area provided shall include a grass floor area of 270 square feet per parking stall, in order to allow room for aisles and interior driveways.

6.201.2 LOCATION

Parking spaces shall be located on the same lot as the principal use building they are intended to serve, or on another lot within 300 feet which is owned or leased by the owner or lessee of the lot where the principal use is located.

Outdoor parking areas may be located in the front, rear or side yard of any building they are required to serve, provided that all stored

vehicles are screened by appropriate plantings from the view of adjoining properties and from the public right-of-way.

Outdoor parking areas may also be provided on the roofs of buildings especially designed to support such use.

Sheltered parking areas may be located in carports attached to the walls of the principal use building, or in garages within, attached to or separated from the principal use building. The space above an underground garage which has been constructed below a yard or court shall be considered part of the open space of the lot on which it is located.

6.201.3 DRAINAGE AND SURFACING

All off-street parking areas shall be graded and sewered, as necessary, to provide for adequate drainage. Such areas shall also be provided

with a durable and dustless surface, such as gravel, asphalt or concrete, to provide for the safe storage and smooth transit of vehicles.

6.201.4 ARRANGEMENT AND MARKING

Individual parking stalls shall be clearly demarcated by visible pavement markings, and arranged in a pattern which allows safe and convenient access to each stall, including adequate space for the backing and turning of vehicles where such maneuvers are necessary.

6.201.5 INGRESS AND EGRESS

Entrance and exit driveways intended for use by two-way traffic shall be at least twenty (20) feet wide. Driveways intended for one-way traffic shall be at least ten (10) feet wide in conjunction with single-family and two-family residential uses, and twelve (12) feet wide in conjunction with all other uses. In no case shall a driveway or access point be more

than forty (40) feet wide. No driveway or access point shall be located closer than fifty (50) feet to the nearest right-of-way line of any intersecting street or highway.

6.201.6 REQUIREMENTS IN CONNECTION WITH VARIOUS USES

a) Residential Off-Street Parking Requirements:

- 1) Single-family detached (including mobile homes), single-family semi-detached, two-family detached, and two-family semi-detached, two (2) parking spaces for each family unit.

Note: An attached or unattached garage or carport on the premises, or that portion of the drive-way not included in the public right-of-way, may be considered as parking space.

- 2) Residential conversion units shall be provided

with a minimum of one (1) parking space per dwelling unit.

3) Boarding or rooming houses, hotels, motels, and bed and breakfasts shall provide at least one (1) parking space for each guest room and one (1) for the resident manager. If a restaurant in connection with the above is open to the public, the off-street parking facilities shall not be less than those required for restaurants, in addition to those required for guest rooms.

4) Townhouses, garden apartments and other apartment structures shall provide a minimum of 1.50 parking spaces per dwelling unit.

b) Commercial Off-Street Parking Requirements:

- 1) Theaters, auditoriums, churches, schools, stadiums, or any other place of public or private assembly - At least one (1) parking space for each three (3) seats provided for public or private assembly.
- 2) Retail stores and other places for trade or business - One (1) vehicle for each two hundred (200) square feet of floor area for public use.
- 3) Food markets and grocery stores - One (1) vehicle parking space for each one hundred (100) square feet of floor area for public use.

- 4) Restaurants, tearooms, and cafeterias - One (1) vehicle space for each fifty (50) square feet of floor area or fraction thereof.
- 5) Bowling alleys - Five (5) vehicle spaces for each alley.
- 6) Office buildings - At least one (1) parking space for each two hundred (200) square feet of floor area or fraction thereof.
- 7) Public garages, automobile, and gasoline service stations - At least one (1) space for each two hundred (200) square feet of floor area, or fraction thereof, devoted to repair or service facilities, and one (1)

space for each employee on the largest shift. This shall be in addition to the space allocated for the normal storage of motor vehicles. No parking shall be permitted on the public right-of-way.

8) Hospitals, nursing homes and personal care homes - At least one (1) parking space for each three (3) beds. Such spaces shall be in addition to those necessary for doctors, administrative personnel and other regular employees. One (1) parking space shall be provided for each employee on the largest shift.

9) Other commercial buildings - at least one

(1) parking space for each three hundred (300) square feet of floor area, or fraction thereof, except when otherwise authorized as a special exception consistent with the principals set forth herein for comparable buildings.

10) Drive-in dairies and restaurants - One (1) parking space for every twenty-five (25) square feet of floor area. No parking will be permitted in the public right-of-way.

11) Dance halls, roller rinks, clubs, lodges, and other similar places - At least one (1) parking space for each two

hundred (200) square feet of floor area.

- 12) Public swimming pools -
At least one (1) parking space for each three (3) persons for whom facilities for dressing are provided; or at least one (1) parking space for every twelve (12) square feet of water surface, including areas for swimming, wading, and diving, whichever requirement is the greater.
- 13) Open areas used for commercial purposes:
 - a. Golf driving ranges - At least one (1) parking space for each tee provided.
 - b. Miniature golf - At least two (2)

parking spaces for each hole.

c. Other open areas -
At least one (1) parking space for each two thousand five hundred (2,500) square feet of area or fraction thereof.

14) Mortuaries, funeral homes, and undertaking establishments - Twenty-five (25) parking spaces for each such use.

15) Shopping Centers - five (5) parking spaces for every one thousand (1,000) square feet of retail or other commercial development.

c) Industrial Off-Street Parking Requirements:

For industrial and manufacturing establishments, truck terminals and wholesale

warehouses, one (1) parking space shall be required for each employee on the largest shift, plus ten (10) spaces for non-employees.

6.202 LOADING AND UNLOADING SPACE

In addition to the off-street parking space required above, any building erected, converted or enlarged in any district for commercial, office building, manufacturing, wholesale, hospital or similar uses, shall provide adequate off-street areas for loading and unloading of vehicles. The minimum size loading space shall be fifty (50) feet in depth, and twelve (12) feet in width, with an overhead clearance of fourteen (14) feet.

All commercial and industrial establishments shall provide loading and unloading and commercial vehicle storage space adequate for their needs. This required space will be provided in addition to established requirements for patron and employee parking.

In no case where a building is erected, converted or enlarged for commercial,

manufacturing, or business purposes shall the public rights-of-way be used for loading or unloading of materials.

6.202.1 REQUIREMENTS

Off-street loading and unloading spaces shall meet the requirements for Drainage and Surfacing, Arrangement and Marking, Lighting and Ingress and Egress stated in Section 6.201 above.

6.202.2 LOCATION

Off-street loading and unloading areas shall be located on the same lot as the principal use they are intended to serve. They shall be screened from the view of adjoining properties and the public right-of-way.

6.300 UNIQUE LOTS AND BUILDING LOCATIONS

6.301 TWO OR MORE BUILDINGS ON A LOT

Two (2) or more principal buildings located on a parcel in single ownership shall conform to all the requirements of this Ordinance which would normally apply to each building as if each were on a separate lot.

6.302 THROUGH LOTS

Where a single lot under individual ownership extends from one street to another parallel or nearly parallel street or alley, the owner(s) shall decide which street will be considered as the principal street, upon which principal use structures will be required to front. The decision of such owner(s) shall be in writing, shall be filed with the zoning office, and shall bind all future owners of the lot.

6.303 LOTS FRONTING ON AN ALLEY

Individual lots, existing at the effective date of this Ordinance fronting on an alley, shall comply with all the requirements of this Ordinance and the district in which said lots are located.

6.304 SIDE YARD OF A CORNER LOT

The side yard of a corner lot which abuts a street shall be equal to the required front yard for that street.

6.305 VISIBILITY AT INTERSECTIONS

On a corner lot in any district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and a half (2

1/2) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines fifty (50) feet from the point of the intersection.

6.400 PERMITTED DEVIATIONS FROM REQUIRED AREAS

6.401 HEIGHT REGULATIONS

Height regulations shall not apply to spires, belfries, cupolas, or domes not used for human occupancy, nor to chimneys, ventilators, skylights, water tanks, bulk-heads, utility poles or towers, radio and television antennae, silos, and ornamental or necessary mechanical appurtenances. Any structure designed to have a height of one hundred fifty (150) feet or more above ground level must be approved by the Federal Aviation Agency and a written statement of approval must accompany the permit application.

6.402 FRONT YARD EXCEPTION

When an unimproved lot is situated between two improved lots, each having a principal building within twenty (20) feet of the side lot line of the unimproved lot, the front yard

may be reduced to a depth equal to that of the greater front yard of the two adjoining lots; provided, however, that it may not be reduced to below ten (10) feet.

6.403 FRONT YARD EXCEPTION FOR CORNER LOTS

When an unimproved corner lot is situated adjacent to two (2) improved lots then the front and side yards of the corner lot which abut the street right-of-way may be reduced to a depth equal to the respective front and side yards of the adjoining lots provided, however, that each yard may not be reduced to below ten (10) feet.

6.404 PROJECTIONS INTO YARDS

Projections into required yards shall be permitted as follows, except that in residential districts in no case shall a structure or projection, except for patios, be located closer than four (4) feet to any side or rear lot line or ten (10) feet to any front lot line.

Bay windows, carports, fireplaces, fire escapes, chimneys, uncovered stairs and landings, and balconies and cornices, canopies, marquees, eaves, or other

architectural features not required for structural support may project into the required side, front, or rear yard not more than a total of three (3) feet.

Patios may be located in the required side and rear yards not closer than three (3) feet to any adjacent property line, and may project into front yards not closer than ten (10) feet to the street right-of-way line.

6.405

CHANGES TO CONFORMING USES AND BUILDINGS

Any conforming use or building may be repaired, maintained, restored or rebuilt to the same dimensions existing at the time that the use or building was originally constructed or started.

Any enlargement or addition to any conforming use must comply in all respects with the regulations of this Ordinance, except that in the case of an enlargement or addition to a building legally existing on the effective date of this Ordinance, the maximum building coverage requirements of this ordinance shall not apply, provided, however, that all of the off-street parking and loading requirements of this ordinance shall be complied with. In

such a case, the maximum building coverage for the enlarged section shall not exceed 75 per cent of the building coverage area of the original structure for commercial and manufacturing buildings, or 50 per cent for residential buildings.

6.500 ACCESSORY STRUCTURES AND USES

6.501 ACCESSORY STRUCTURES

All accessory structures shall conform with the minimum yard regulations established in this ordinance, except as provided below.

6.501.1 UNATTACHED STRUCTURES ACCESSORY TO RESIDENTIAL BUILDINGS

Structures accessory to residential buildings which are not attached to a principal structure may be erected within the required side and rear yards of a principal structure provided that they conform with the following:

- a) Maximum Height - One and one-half stories or 15 feet in height.
- b) Distance from Side Lot Line - Not less than four (4) feet from the side lot line, except

in the case of corner lots where the full side yard, as specified in Section 6.304 above, shall be maintained.

- c) Distance From Rear Lot Line - Not less than four (4) feet from the rear lot line.

6.501.2 UNATTACHED STRUCTURES ACCESSORY TO NON-RESIDENTIAL BUILDINGS

Such accessory structures shall comply with front and side yard requirements for the principal structure and shall have a minimum rear yard of at least ten feet.

6.501.3 FENCES, WALLS, HEDGES

Notwithstanding other provisions of this Ordinance, fences, walls, and hedges may be permitted in any required yard, or along the edge of any yard, provided that no fence, wall, or hedge along the sides or front edge of any yard shall obstruct vision at any street corner, in violation of the provisions of Section 6.305 above,

and in no case shall any fence, wall or hedge exceed six (6') feet in height.

6.502 PRIVATE PARKING AREAS AND GARAGES FOR LICENSED VEHICLES

Accessory off-street parking areas or garages serving the residential or non-residential parking demand created by the principal use, are permitted in accordance with Section 6.201 above. Said parking areas may be located in any required front, side or rear yard.

6.503 PARKING, STORAGE AND USE OF MAJOR RECREATION EQUIPMENT

For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. No more than one (1) piece of major recreational equipment shall be parked or stored on any lot in a residential district. No such equipment shall be parked or stored on any lot in a residential district

in such a manner as to prevent ingress of fire-fighting equipment, or fire fighters acting in event of crises, except in a carport or enclosed building or behind the nearest portion of a building to a street, provided, however, that such equipment may be parked anywhere on residential premises for a period of time not to exceed twenty-four (24) hours during loading or unloading. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use, except by the owner, or by occupants having the approval of the owner(s) to do so, for non-commercial purposes. Such use by or with the approval of the owner may not exceed a period of two (2) weeks during any calendar year.

6.504

PRIVATE OUTDOOR SWIMMING POOLS

a) In-ground Swimming Pools. A single private in-ground outdoor swimming pool per dwelling unit is permitted as an accessory use to a residential structure provided that such swimming pool is for the private use of the residents of the

dwelling unit or for their guests and provided that the pool is not located closer than six (6) feet to any side or rear lot line or ten (10) feet to any front lot line and does not occupy more than ten (10) percent of the lot area and that a four (4) foot high fence, wall or similar enclosure, shall completely surround the area of the swimming pool. Enclosure. Every swimming pool shall be completely surrounded by a fence, wall or similar enclosure not less than four (4) feet in height, which shall be so constructed as to have no openings, holes or gaps larger than two (2) inches in any dimension. If the fence or wall is a picket fence, the horizontal dimensions maintained shall not exceed four (4) inches. A dwelling or accessory building may be used as part of such enclosure.

All gates or door openings through such enclosure shall be equipped with a self-closing, self-latching device on the pool side for keeping the gate or door securely closed at all times when not in

use, except that the door of any dwelling or accessory building which forms a part of the enclosure need to be so equipped. The fence shall surround the pool and the deck area. Fences shall be erected around all existing swimming pools no later than ninety (90) days from the enactment date of this amendment.

No swimming pool shall be so located as to interfere with the operation of a well or on-site septic system, or to be located where there is potential danger of a septic system discharging into the pool or onto the adjacent area around the pool.

b} Above Ground Swimming Pools. A single private above ground outdoor swimming pool per dwelling unit is permitted as an accessory use to a residential structure provided that such swimming pool is for the private use of the residents of the dwelling unit or for their guests and provided that the pool is not located closer than four (4) feet to any side or rear lot line or ten (10) feet to any

front lot line and does not occupy more than ten (10) percent of the lot area. Portable aboveground pools having walls four (4) feet or greater in height may be excluded from the fencing requirement provided such pools are equipped with access ladders which may be raised and locked in a near vertical position when the pool is unattended. An aboveground pool as described in this paragraph which is served by a ladder or steps which cannot be raised and locked so as to prevent access by small children shall be enclosed in accordance with subsection a) above.

6.505

HOME GARDENING, NURSERIES AND GREENHOUSES

Home gardening and accessory structures used for nurseries or as greenhouses are permitted in residential areas, provided they are used by the residents for non-commercial purposes and provided further that they shall not include the outdoor storage of equipment and supplies.

6.506

HORSES AND OTHER DOMESTICATED ANIMALS FOR
FAMILY USE

The keeping of horses and other domesticated animals specified herein, for purposes other than commercial or agricultural purposes, is permitted as an accessory to residential uses on tracts of three (3) acres or more in size, subject to the following additional regulations:

- a) Fencing shall be provided to restrain domestic animals from intruding upon any neighboring property.
- b) A structure for stabling or sheltering domesticated animals shall be provided at least two hundred (200) feet away from any residence on any adjacent property.
- c) Density shall be one (1) animal unit for the first three (3) acres, with an additional animal unit permitted for each additional acre, where:

1 horse	= 1 animal unit
1 cow	= 1 animal unit
2 pigs	= 1 animal unit
2 sheep	= 1 animal unit
2 goats	= 1 animal unit

12 fowl of any kind = 1 animal unit
12 rabbits = 1 animal unit

- d) Manure shall be removed at least bi-weekly and disposed of in a sanitary manner. The accumulation of manure shall not be sufficient to cause an odor problem, nor shall its disposal be accomplished in a manner to cause or contribute to a problem of water pollution.

6.507 MARQUEES IN COMMERCIAL DISTRICTS

Marquees which are designed to provide shelter or which are designed to enhance the appearance of a commercial structure may project out over a public sidewalk area for a distance of up to six (6) feet, but in no case shall they extend beyond the curb line.

ARTICLE VII - STANDARDS FOR CERTAIN PRINCIPAL USES

7.100 APARTMENT HOUSES, LOW-RISE

Apartment houses of one (1) to three (3) stories in height other than garden apartments, may be built in districts where provided, subject to the following regulations:

- a) The maximum permitted density shall be twenty (20) dwelling units per acre.
- b) At least one and one-half (1.5) off-street parking spaces shall be provided per dwelling unit.
- c) The apartment houses shall be served by off-site water and sewerage facilities.
- d) Each dwelling unit shall have adequate light, air and heating, as well as complete bathroom and kitchen or kitchenette facilities.
- e) The maximum height of low-rise apartment houses shall be thirty-five (35) feet.

7.200 CLUSTER DEVELOPMENT, RESIDENTIAL

Cluster development shall consist of single-family homes clustered on a tract of five (5) acres or more, in such manner as to provide a common or public open space area for recreational use. The following regulations shall apply to cluster development:

- a) The lot area provided for each individual dwelling unit, excluding streets, may be reduced to seventy-

five percent (75%) of the requirements stated for the district in this Ordinance, provided that off-site water and sewerage facilities are provided for each unit.

- b) Useable open space, accessible to the dwelling units, must be provided in an amount equal to at least twenty-five percent (25%) of the tract.
- c) The Borough of Jim Thorpe may accept dedication of the common open space, if it so desires. If not, the developer must agree to maintain the open space himself, or require participation in an owners' organization for maintenance of the common open space, by means of Deed Covenants to be signed by all buyers.
- d) All units in the cluster development must be accessible to fire trucks, police and other emergency vehicles. The cluster development must include access roads adjoining a public right-of-way, and an internal circulation system in conformance with the requirements of the Borough's Subdivision Ordinance. These roads shall be of sufficient width and have sufficient turning radii to accommodate safe transit by fire trucks and other emergency vehicles. Unless the Borough accepts dedication of such roads, they shall be

maintained in good repair and kept free of snow, ice or any other materials capable of impeding the safe flow of traffic by the developer or owners organization.

- e) Off-street parking spaces must be provided in accordance with the requirements of Section 6.201.7, for single-family dwellings.

7.300

CONVERSIONS, OTHER THAN RESIDENTIAL CONVERSIONS AS SPECIFIED IN SECTION 7.400, BELOW

Where provided in commercial districts, structures may be redesigned and converted from any former use to any other use permitted in the district, subject to the following regulations:

- a) The design of said conversion shall be compatible with that of other structures in the neighborhood. In addition, both the structure and all uses to be located therein, shall be in compliance with the performance standards of the appropriate Section under Article IV.
- b) All driveways, vehicular access points and loading zones for the structure shall be designed in such manner as to minimize conflict points between vehicles and pedestrians, and between vehicles with each other. Driveway access points shall be restricted to the minimum required to provide safe vehicular access, and loading zones, and wherever

possible, shall be located in areas not adjacent to sidewalks used by pedestrians.

7.400 CONVERSIONS, RESIDENTIAL

In districts where provided, single-family homes may be converted into two-family or multi-family structures, provided that the following conditions are met:

- a) At least fifteen hundred (1,500) square feet of lot area is required for each resulting dwelling unit.
- b) At least one (1) off-street parking space shall be provided per resulting dwelling unit.
- c) The structure to be converted must be served by off-site water and sewerage facilities.
- d) Each dwelling unit shall have adequate light, air and heating, as well as complete bathroom and kitchen facilities.

7.500 GARDEN APARTMENTS

Garden apartments may be constructed in those districts where provided, in accordance with the following regulations:

- a) At least twenty-five percent (25%) of the garden apartment tract must be maintained in open space, and developed in recreational uses for the enjoyment of the residents. Areas for both active recreation (swimming, tennis, etc.) and passive recreation (landscaped walks, benches, gardens,

picnic groves, etc.) may be included in the total area required for open space use.

- b) Dwelling units may be developed at a gross density of ten (10) units per acre.
- c) The maximum height of garden apartment units shall be thirty-five (35) feet, or three (3) stories.
- d) All units in the garden apartment development must be accessible to fire trucks, police and other emergency vehicles. The garden development must include access roads adjoining a public right-of-way, and an internal circulation system which conforms to the requirements of the Borough Subdivision Ordinance. These roads shall be of sufficient width and have sufficient turning radii to accommodate safe transit by fire trucks and other emergency vehicles. Unless the Borough accepts dedication of such roads, they shall be maintained in good repair and kept free of snow, ice or any other materials capable of impeding the safe flow of traffic, by the developer or subsequent landlord.
- e) Off-street parking spaces shall be provided in the amount of 1.5 per dwelling unit.
- f) Storage areas for trash shall be provided, and shall be screened from the view of dwellings on the

premises, all adjacent premises and the public right-of-ways. These areas shall be in rodent-proof structures, and maintained in a clean, tidy condition. Trash shall be removed for disposition in a sanitary manner at least twice weekly, and shall not be allowed to accumulate to the point that offensive odors are present or maggots are bred.

7.600 HOME OCCUPATIONS

In districts where provided, a single home occupation per dwelling unit conducted within a room or rooms of a dwelling and which is clearly secondary and customarily incidental to the residential use is permitted. Such occupations include attorneys, accountants, architects, engineers, physicians, dentists, teachers, artists, musicians, telephone calling services, beauticians, barbers, milliners, seamstresses, tailors, and residential day-care homes. Other types of home occupations may be approved by the Zoning Hearing Board provided it can be clearly shown that such home occupation meets the restrictions imposed on all home occupations. A home occupation must meet the following restrictions:

- 1) Such an occupation shall be conducted only within the confines of the residence with no exterior storage or use permitted.
- 2) Such an occupation shall be restricted to hours of operation commencing at 7:00 a.m. and concluding at 9:00 p.m.
- 3) Employment of any nonresident of the household other than one (1) nonprofessional person is prohibited.
- 4) The available floor space within the dwelling to be used for the home occupation shall be limited to twenty-five percent (25%) of the existing floor space.
- 5) An approved home occupation, once commenced, is prohibited from being changed to any other home occupation without approval of the Zoning Officer or the Zoning Hearing Board, as the situation warrants.
- 6) Such occupation shall not create any adverse traffic, parking, noise or aesthetic impact upon the abutting properties or the neighborhood.
- 7) A home occupation shall not require or cause any exterior alteration to the residence, structure or to the property except for

permitted additional parking and a single permitted sign. The sign shall conform to the requirements of Section 6.102(f).

7.700

MOBILE HOME PARKS

Includes the development of mobile home parks planned as a unit which are located on tracts of land at least five (5) acres in size. Also, includes individual mobile homes located in such parks. Such mobile home parks and individual mobile homes shall comply with all of the regulations of the State of Pennsylvania for Mobile Home Parks and with the following regulations:

- a) Individual mobile home lots located in a mobile home park shall contain four thousand (4,000) square feet of lot area. The clustering of mobile home units on a lesser sized area, to produce a livable environment, may be permitted, provided that the objectives of this section are complied with and provided further that the overall average lot area per unit of the park shall not be less than four thousand (4,000) square feet.
- b) No mobile home shall be located closer than fifty (50) feet to any property line defining the external boundary of the park.
- c) No structure located on any lot in any mobile home park shall be closer to any front line than twenty-

five (25) feet; to any side lot line than ten (10) feet; nor to any rear lot line than twenty (20) feet.

- d) The minimum side clearance between any two (2) adjacent mobile homes shall be thirty (30) feet.
- e) Roadway or area lighting shall be reflected away from adjoining properties.
- f) The commercial sale of mobile homes from a mobile home park is prohibited.
- g) Individual tenants at the mobile home park may construct attached enclosures to individual mobile homes, provided that such enclosures do not exceed fifty percent (50%) of the floor area of the mobile home. Individual building and zoning permits shall be required for such enclosures in each case.
- h) At least twenty-five percent (25%) of the mobile home park shall be in open space developed for recreational use by the residents.
- i) The layout and construction of new streets within the mobile home park shall conform with the requirements of the Subdivision Regulations of the Borough, and shall provide access to all individual mobile homes by fire and other emergency vehicles.
- j) All mobile home parks shall provide to each lot a continuing supply of safe and potable water as

approved by the Pennsylvania Department of Environmental Protection. The park shall also provide each lot with a connection to public sanitary sewage disposal facilities of the Borough or to facilities provided by the developer, which shall be in accordance with, and as approved by, the Pennsylvania Department of Environmental Protection.

- k) All area devoted to utility purposes, such as garbage storage area, common washing or drying facilities and other such area shall be adequately screened.

7.800

SERVICE STATIONS, AUTOMOTIVE

Automotive service stations, including gasoline and diesel fuel stations and public automobile repair garages, may be built in districts where provided, subject to the following regulations:

- a) Vehicular exits and entrances must be at least two hundred (200) feet distant, as measured along the public right-of-way, from the nearest property line of any school, public playground, place of worship, hospital or public library.
- b) Vehicular exits and entrances must be at least fifty (50) feet distant from any street intersection.

- c) No oil draining pit or other appliance for such purpose shall be located within twelve (12) feet of any neighboring non-residential property line, or within twenty-five (25) feet of any residential district or property, unless such pit or appliance is located entirely within a closed building.
- d) Any restroom area provided shall be screened from the view of the public right-of-way and of adjacent properties.
- e) All repairs shall be performed within an enclosed building.
- f) Off-street parking shall be provided in accordance with the regulations of this Ordinance.

7.900

SHOPPING CENTERS

Shopping centers may be built in districts where provided, subject to the following regulations:

- a) Safe and separate means of ingress and egress to the shopping center tract must be provided for passenger cars and service vehicles, the latter including delivery trucks.
- b) No access driveway shall be located closer than one hundred (100) feet to any street intersection or to any other driveway.
- c) Traffic generated by the shopping center complex must not impede the flow of traffic in the

surrounding circulation, or increase the hazard of accidents. The developer of the proposed shopping center must include, in his application for such use, a traffic study prepared by a bonafide traffic engineer or consultant, which includes estimates of the amount of traffic to be generated by the shopping center complex, and the methods by which the impacts of such traffic upon the surrounding circulation system will be minimized.

- d) The interior circulation system must separate pedestrian traffic from vehicular traffic, and passenger car traffic from service or delivery truck traffic. The professional traffic study submitted by the developer must also include information on these matters.
- e) Parking spaces for passenger cars and loading areas for trucks shall be provided in accordance with the regulations of Article VI, subject to the additional requirement that passenger parking areas be physically separated from truck loading areas. Preferably, these two types of areas shall be located on different sides of the buildings they are intended to serve.
- f) Shopping centers shall be subject to all of the performance standards of Article IV.

- g) Shopping centers may consist of either closed or unclosed pedestrian malls.

7.1000

TOWNHOUSES (ROWHOUSES)

Townhouses (rowhouses) may be built in districts where provided, subject to the following regulations:

- a) The maximum height of a townhouse shall be thirty-five (35) feet, or three (3) stories.
- b) Townhouses shall be joined to each other by party walls, in groupings consisting of no less than three (3) and no more than seven (7) townhouses.
- c) The maximum permitted density for townhouses shall be seven (7) dwelling units per acre.
- d) Off-street parking shall be provided in accordance with the regulations of Article VI.
- e) The lawn areas consisting of the front, rear, and, in the case of corner properties, the side yards of townhouse units may be included in the Deed of Sale to the individual homeowners' purchasing said townhouses; or, ownership of such areas may be retained by the developer, who must include, in his application for development, a statement in writing to the effect that he will be responsible for the continuing maintenance of such areas. The developer shall also agree, in writing, to provide continuing maintenance for any other common open

space or recreational area included in the townhouse tract, unless the Borough agrees to accept dedication of such area, or the developer arranges, by Deed Covenant, for the maintenance of such area by an association of the townhouse homeowners.

7.1100 BED AND BREAKFAST

Bed and breakfast uses may be built in district as and where provided, subject to the following regulations:

- a) No more than ten (10) guest rooms shall be provided and no more than two (2) adults and two (2) children may occupy one (1) guest room.
- b) One (1) off-street parking space shall be provided for each guest room.
- c) At least one (1) full bathroom separate from the host family's bathroom shall be provided for every two (2) guest rooms.
- d) There shall be no use of show windows or any type of display or advertising visible from outside the premises. One on-premise sign shall be permitted which shall not exceed ten (10) square feet in size.
- e) There shall be no separate kitchen or cooking facilities in any guest room.

- f) The existing on-site sewage disposal system shall be reevaluated as being adequate, in accordance with local and State regulations.

7.1200

JUNKYARD OR SCRAPYARD

Junkyards and scrapyards may be built in districts as and where provided, subject to the following regulations:

- a) No junkyard or scrapyard shall be established or maintained closer than fifty (50) feet to any street or any side property line. All junkyards or scrapyards must be entirely enclosed within a solid wall, solid fence, or other barrier which may be approved by Council. Such fence, wall or barrier shall not be less than six (6) feet high. The fifty (50) foot set back shall be kept clear and vacant at all times. However, whenever such fence, wall or barrier is visible from a public road, or from a residence, or from an adjoining property, a landscaped evergreen screen of trees and/or shrubs of three (3) feet or more at planting, and which are capable of attaining a continuous height of six (6) feet or more, shall be planted along such fence, wall or barrier, or section of same. The minimum acreage of any such junkyard or scrapyard shall be ten (10) acres.

- b) There shall be established and maintained in all junkyards and scrapyards parallel aisles or roadways of not less than twelve (12) feet in width and not more than one hundred twenty-five (125) feet apart. All aisles or roadways must be kept clear and vacant at all times.
- c) No inflammable liquids shall be permitted to remain in any junked container, whether the container is a separate item or is an integral part of another item.
- d) All rags, bottles and scrap paper must be kept within the walls of a building constructed of fire resistant material and no garbage or other organic wastes shall be stored in such premises.
- e) Such premises shall at all times be maintained so as not to constitute a nuisance or a menace to the health of the community or residents nearby.
- f) The manner of storage and arrangement of junk, and the drainage facilities of the premises shall be such as to prevent the accumulation of stagnant water upon the premises and to facilitate easy access for fire fighting purposes.
- g) No burning of any materials shall occur within a junkyard at any time.

LARGE AND SMALL GROUP CARE FACILITIES

Large and small group care facilities may be built in districts as provided by this Ordinance, subject to the following regulations:

- a) The applicant shall demonstrate those support facilities that are essential to the functioning of the specific facility. These support facilities shall include, but are not limited to transportation, medical care, education facilities, recreation facilities, social services and training facilities.
- b) The facility shall have obtained any and all licenses and permits required by the Federal, State, County or Local government which may be relevant to the particular type of facility.
- c) A minimum floor area of nine hundred (900) square feet shall be provided for all small group care facilities.
- d) For large group care facilities, a minimum floor area of nine hundred (900) square feet plus one hundred ten (110) square feet for every resident in excess of six (6) shall be provided.
- e) Small Group Care Facilities shall not have more than six (6) residents.

- f) The group care facilities shall have twenty-four (24) hour per day supervision of the residents by people qualified by training and experience in the field for which the group care facility is intended.
- g) One off-street parking space per employee for the maximum number of employees on any one shift shall be provided if the resident group members are not allowed to operate motor vehicles. If the resident group members are allowed to operate motor vehicles, one off-street parking space shall be provided for each resident as well.
- h) The facility shall not provide medical, counseling or other service to persons who do not reside at the facility.
- i) The lot on which the group care facility is sited shall be separated from lots on which other group care facilities are located by a minimum distance of eight hundred (800) feet in any direction.
- (j) The facility shall comply with the following requirements, by providing said information to the Zoning Officer, on or before February 1st, of each year, or an annual basis:

- 1) The names, addresses, and telephone numbers of the primary and alternate supervisors of the group home facility.
 - 2) The address of the operator of the group home for the acceptance of correspondence and service of documents, which address shall be within the Commonwealth of Pennsylvania, or in the event of a sponsor not maintaining an office within the Commonwealth of Pennsylvania, then the sponsor shall designate an agent for acceptance of correspondence and service of documents within the Commonwealth of Pennsylvania.
 - 3) A current copy of all licenses held by the operator of the group home authorizing the operation of the group home facility.
- k) The above information shall be accompanied by an annual fee, payable to the Borough as shall be set by Borough Council by resolution. Until otherwise established, the fee shall be twenty-five dollars (\$25.00) per annum.
- 1) The applicant shall also submit such additional information as shall be required by the annual application to be filed with the Zoning Officer to accompany the above information.

7.1400

ADULT COMMERCIAL USES

Adult commercial uses may be built in districts as and where provided, subject to the following regulations:

- a) No materials, merchandise, or film offered for sale, rent, lease, loan or for view upon the premises shall be exhibited or displayed outside of a building or structure or shall be visible from a window, door, or exterior of a building or structure.
- b) Any building or structure used and occupied as an adult commercial use shall be windowless, or have an opaque covering over all windows or doors of any area in which materials, merchandise, or film are exhibited or displayed and no sale materials, merchandise or film shall be visible from outside of the building or structure.
- c) No signs shall be erected upon the premises depicting or giving a visual representation of the type of materials, merchandise or film offered therein.
- d) No person under the age of eighteen (18) years of age shall be permitted within a building whose operation would be considered an adult use. Each entrance to the building shall be posted with a notice specifying that persons under the age of

eighteen (18) years are not permitted to enter therein and warning all other persons that they may be offended upon entry.

- e) No type of adult commercial use may change or expand to include another adult commercial use, except upon approval as an additional conditional use.
- f) No unlawful specified sexual activity or conduct shall be permitted.
- g) No more than one adult commercial use establishment or place may be located within one building or shopping center.
- h) Parking: one (1) off-street parking space for each four (4) seats provided for patron use, or at least one (1) off-street parking space for each fifty (50) square feet of gross floor area used or intended to be used for service to customers, patrons, clients, guests or members, whichever requires the greater number of off-street parking spaces, plus one (1) additional space for each employee.
- i) Any such use shall have sufficient buffer yards as defined in Section 4.109, subject to such additional or stricter setbacks from the regular setback, said regular setbacks to apply as a

minimum setback, to the structure housing the actual use and subject to the stricter screening as in the discretion of the Board shall be necessary for the public health, safety and welfare in particular situations and which assures appropriate buffer yards between the proposed use and surrounding and contiguous lots. Any such additional setback or screening requirements shall be stated as conditions for the use.

- j) The distance between any Adult Commercial Uses and any other use shall be measured in a straight line, without regard to intervening structures, from the closet point of the Adult Commercial Use lot line and associated parking to the closet point on the lot line of such other land use.
- k) No such use shall be located within one thousand (1,000) feet of a similar use. The distance between any two Adult Commercial Uses shall be measured in a straight line, without regard to intervening structures, from the closet point of the Adult Commercial Use lot line and associated parking to the closet point of the other Adult Commercial Use and associated parking lot line.

WASTE FACILITIES

A Waste Facility is permitted as a Conditional Use in the Industrial District provided it is not to be located:

- a) In the 100-year floodplain.
- b) Within three hundred (300) feet of an important wetland.
- c) In coal bearing areas underlain by recoverable coals, unless the waste facility owner owns the mineral rights.
- d) In valleys, ravines, or hollows where operation would impact a perennial stream.
- e) In areas underlain by limestone or carbonate formations less than five (5) feet thick.
- f) Within three hundred (300) feet of any occupied dwelling. The actual disposal area may not be closer than five hundred (500) feet to an occupied dwelling.
- g) Within one hundred (100) feet of a perennial stream.
- h) Within one hundred (100) feet of a property line.
- i) Within twenty-five (25) feet of a coal seam.
- j) Within 0.25 miles upgradient, or three hundred (300) feet downgradient, of any private or public water source.

ARTICLE VII - PLANNED RESIDENTIAL DEVELOPMENT:

STANDARDS AND PROCEDURES

8.100

PERMITTED USES

Planned residential development shall consist of dwelling units in detached, semi-detached, attached or multi-storied structures, or any combination thereof; plus the following auxiliary and accessory uses designed to serve the residential development:

- a) Adequate safe and convenient pedestrian and vehicular circulation facilities, including roadways, driveways, off-street parking and loading, sidewalks, malls and landscaped areas.
- b) Paving and drainage facilities of sufficient capacity to handle all storm waters collecting upon the site, or running off the site upon completion of the proposed development, as well as to prevent erosion and the formation of dust.
- c) Signs and lighting devices arranged in such a manner as to cause no detriment or inconvenience to the residential uses.
- d) Open space suitable for use as play areas for children, or as outdoor living space for families.
- e) Retail, commercial, and other uses designed to serve residential uses in the PRD complex and surrounding neighborhoods.

All of the aforesaid auxiliary and accessory uses shall be built and provided before the residential uses are built; however, in the case of large-scale Planned Residential Development Complexes proposed to be developed over a period of years, development may take place in phases applicable to clearly delineated geographic segments of the comprehensive plan for development of the entire PRD complex, subject to the approval of the Borough Council. In all such cases, the developer shall submit to the Borough Council his schedule and timing for the various phases of proposed development; and the Borough Council may, at its discretion, permit the completion of each phase with auxiliary and accessory use development followed by residential use development prior to the commencement of the next scheduled phase.

8.200

STANDARDS FOR THE DENSITY AND INTENSITY OF LAND USE IN PLANNED RESIDENTIAL DEVELOPMENT

All planned residential developments shall be located on tracts of land not less than five (5) acres in size, which are under single ownership or control.

Gross residential density shall not exceed 3.5 dwelling units per acre.

At least twenty-five percent (25%) of the PRD tract must be retained in open space accessible to the dwelling units for use as play area for children; or as outdoor

Living space for families. Areas for both active and passive recreational uses shall be developed.

At least ten percent (10%) of the PRD tract shall be developed and maintained for retail or other commercial use.

8.300

PROVISIONS FOR THE MAINTENANCE OF COMMON OPEN SPACE

The Borough may, at any time and from time to time, accept the dedication of land or any interest therein for public use and maintenance.

In the event that the Borough does not require or accept the dedication of land set aside for use as common open space, pursuant to this Section, the landowner shall provide for and establish an organization for the ownership and maintenance of the common open space by means of deed covenants.

Any organization established pursuant to the regulations of this Section, shall not be dissolved; nor shall it dispose of the common open space, by sale or otherwise (except to an organization conceived and established to own and maintain the common open space), without first offering to dedicate the same to the public.

In the event that an organization established pursuant to the regulations of this Section to own and maintain common open space, or any successor organization, shall at any time after establishment of the planned

residential development fail to maintain the common open space in reasonable order and condition in accordance with the development plan, the Borough shall serve written notice upon such organization, or upon the residents of the planned residential development, setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be corrected within thirty (30) days thereof, and shall state the date and place of a hearing thereon which shall be held within fourteen (14) days of the notice. At such hearing, the Borough may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be corrected.

If the deficiencies set forth in the original notice or in the modifications thereof shall not be corrected within thirty (30) days or any extension thereof, the Borough, in order to preserve the taxable values of the properties within the planned residential development and to prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of one year. Said maintenance by the Borough shall not constitute a taking of said common open space, nor vest in the public any

rights to use the same. Before the expiration of said year, the Borough shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space, call a public hearing upon notice to such organization, or to the residents of the planned residential development, to be held by the Borough Council, at which hearing such organization or the residents of the planned residential development shall show cause why maintenance by the Borough shall not, at the option of the Borough, continue for a succeeding year. If the Borough Council shall determine such organization is ready and able to maintain said common open space in reasonable condition, the Borough shall cease to maintain said common open space at the end of said year. If the Borough Council shall determine that such organization is not ready and able to maintain said open space in a reasonable condition, the Borough may, in its discretion, continue to maintain said common open space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter. The decision of the Borough Council shall be subject to appeal in the Carbon County Court of Common Pleas.

The cost of maintenance of common open space by the Borough, pursuant to this Section, shall be assessed

ratably against the properties within the planned residential development that have a right of enjoyment of the common open space, and shall become a lien on said properties. The Borough, at the time of entering upon said common open space for the purpose of maintenance, shall file a notice of lien in the Office of the Prothonotary of Carbon County, upon the properties affected by the lien within the planned residential development.

8.400 STANDARDS FOR THE LOCATION AND DESIGN OF STREETS, UTILITIES, PUBLIC GROUNDS AND IMPROVEMENTS

The authority granted to municipalities under Article V of the Pennsylvania Municipalities Planning Code to establish standards for the location, width, course and surfacing of streets, walkways, curbs, gutters, street lights, shade trees, water, sewerage and drainage facilities, easements or rights-of-way for drainage and utilities, reservations of public grounds and other improvements is hereby vested in the Borough Council for the purpose of regulating and controlling planned residential development.

The standards and requirements applicable to the improvements specified under this Section, as they appear in the Subdivision Regulations applicable to the Borough of Jim Thorpe, pursuant to Article V of the Pennsylvania Municipalities Planning Code, shall be applicable to

planned residential development. The PRD development shall be served by off-site water and sewer facilities. Buildings and streets shall be so arranged as to permit accessibility by emergency vehicles at all times.

8.500 MARKETABILITY

The developer shall demonstrate that a sufficient market exists for the type, size and character of dwelling units proposed for inclusion in the planned residential development.

8.600 ENFORCEMENT AND MODIFICATION OF PROVISIONS OF THE PLAN

To further the mutual interest of the residents of the planned residential development and of the public in the preservation of the integrity of the development plan, as finally approved, and to insure that modifications, if any, in the development plan shall not impair the reasonable reliance of the said residents upon the provisions of the development plan, nor result in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the development plan as finally approved, whether those are recorded by plat, covenant, easement or otherwise, shall be subject to the following provisions:

- a) The provisions of the development plan relating to
 - (1) the use, bulk and location of buildings and structures, (2) the quantity and location of common

open space, except as otherwise provided in this Ordinance, and (3) the intensity of use or the density of residential units, shall run in favor of the municipality and shall be enforceable in law or in equity by the municipality, without limitation on any powers of regulation otherwise granted the municipality by law.

- b) All provisions of the development plan shall run in favor of the residents of the planned residential development, but only to the extent expressly provided in the development plan and in accordance with the terms of the development plan, and to that extent said provisions, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or equity by said residents acting individually, jointly, or through an organization designated in the development plan to act on their behalf; provided, however, that no provisions of the development plan shall be implied to exist in favor of residents of the planned residential development except as to those portions of the development plan which have been finally approved and have been recorded.
- c) All those provisions of the development plan authorized to be enforced by the municipality under

this Section may be modified, removed, or released by the municipality, except grants or easements relating to the service or equipment of a public utility, subject to the following conditions: (1) no such modification, removal or release of the provisions of the development plan by the municipality shall affect the rights of the residents of the planned residential development to maintain and enforce those provisions, at law or equity, as provided in this Section; (2) no modification, removal or release of the provisions of the development plan by the municipality shall be permitted except upon a finding by the Borough Council, following a public hearing thereon pursuant to public notice called and held in accordance with the provisions of this Article, that the same is consistent with the efficient development and preservation of the entire planned residential development, does not adversely affect either the enjoyment or land abutting upon or across the street from the planned residential development or the public interest, and is not granted solely to confer a special benefit upon any person.

d) Residents of the planned residential development may, to the extent and in the manner expressly authorized by the provisions of the development plan, modify, remove or release their rights to enforce the provisions of the development plan, but no such action shall affect the right of the municipality to enforce the provisions of the development plan in accordance with the provisions of this Section.

8.700

APPLICATION PROCEDURES

8.701 APPLICATION FOR TENTATIVE APPROVAL OF PLANNED RESIDENTIAL DEVELOPMENT

In order to provide an expeditious method for processing a development plan for a planned residential development under the terms of an ordinance adopted pursuant to the powers granted herein, and to avoid the delay and uncertainty which would arise if it were necessary to secure approval by a multiplicity of local procedures of a plat of subdivision as well as approval of a change in the zoning regulations otherwise applicable to the property, it is hereby declared to be in the public interest that all procedures with respect to the approval or disapproval of a development plan for a planned residential

development and the continuing administration thereof shall be consistent with the following provisions:

- a) An application for tentative approval of the development plan for a planned residential development shall be filed by or on behalf of the landowner;
- b) The application for tentative approval shall be filed with the Borough Council by the landowner on forms supplied by the Borough Council, together with a fee of \$100.00 and a map or plan of the proposed planned residential development drawn to a scale of one (1) inch equals one hundred (100) feet (1" = 100').
- c) The application and map submitted by the landowner for tentative approval of the proposed PRD shall set forth the following information:
 - 1) The location, size and topography of the site and the nature of the landowner's interest in the land proposed to be developed;

- 2) The density of land use to be allocated to parts of the site to be developed;
- 3) The location and size of the common open space and the form of organization proposed to own and maintain the common open space;
- 4) The use and the approximate height, bulk and location of buildings and other structures;
- 5) The feasibility of proposals for the disposition of sanitary waste and storm water;
- 6) The substance of covenants, grants of easements or other restrictions proposed to be imposed upon the use of land, buildings and structures including proposed easements or grants for public utilities;
- 7) The provisions for parking of vehicles and the location and width of proposed streets and public ways;
- 8) The required modifications in the municipal land use regulations

otherwise applicable to the subject property; and;

- 9) In the case of development plans which call for development over a period of years, a schedule showing the proposed times within which applications for final approval of all sections of the planned residential development are intended to be filed. This schedule must be updated annually, on the anniversary of its approval, until the development is completed and accepted.
- d) The application for tentative approval of a planned residential development shall include a written statement by the landowner setting forth the reasons why, in his opinion, a planned residential development would be in the public interest and would be consistent with the comprehensive plan for the development of the municipality.
- e) The application for, and tentative and final approval of, a development plan for

a planned residential development prescribed in this Article shall be in lieu of all other procedures or approvals, otherwise required pursuant to the Subdivision Regulations and Zoning Ordinance of the Borough of Jim Thorpe.

8.702

PUBLIC HEARINGS

- a) Within sixty (60) days after the filing of an application for tentative approval of a planned residential development pursuant hereto, a public hearing pursuant to public notice on said application shall be held by the Borough Council in the manner prescribed for the enactment of an amendment to a zoning ordinance. The chairman, or, in his absence, the acting chairman, of the Borough Council may administer oaths and compel the attendance of witnesses. All testimony by witnesses at any hearing shall be given under oath and every party of record at a hearing shall have the right to cross-examine adverse witnesses.
- b) A verbatim record of the hearing shall be caused to be made by the Borough Council whenever such records are requested by any party to the proceedings; but the cost of making and transcribing such a record shall be borne by the

party requesting it and the expense of copies of such record shall be borne by those who wish to obtain such copies. All exhibits accepted in evidence shall be identified and duly preserved or, if not accepted in evidence, shall be properly identified and the reason for the exclusion clearly noted in the record.

- c) The Borough Council may continue the hearing from time to time, and may refer the matter back to the Borough Planning Commission for a report, provided, however, that in any event, the public hearing or hearings shall be concluded within sixty (60) days after the date of the first public hearing.

8.703

THE FINDINGS

- a) The Borough Council, within sixty (60) days following the conclusion of the public hearing provided for in this Ordinance, shall, by official written communication, to the landowner, either:
 - 1) Grant tentative approval of the development plan as submitted;
 - 2) Grant tentative approval subject to specified conditions not included in the development plan as submitted; or
 - 3) Deny tentative approval to the development plan.

Failure to so act within said period shall be deemed to be a grant of tentative approval of the development plan as submitted. In the event, however, that tentative approval is granted subject to conditions, the landowner may, within thirty (30) days after receiving a copy of the official written communication of the Borough Council notify Borough Council of his refusal to accept all said conditions, in which case, the Borough Council shall be deemed to have denied tentative approval of the development plan. In the event the landowner does not, within said period, notify the Borough Council of his refusal to accept all said conditions, in which case, the Borough Council shall be deemed to have denied tentative approval of the development plan. In the event the landowner does not, within said period, notify the Borough Council of his refusal to accept all said conditions, tentative approval of the development plan, with all said conditions, shall stand as granted.

- b) The grant or denial of tentative approval by official written communication shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth the

reasons for the grant, with or without conditions, or for the denial, and said communications shall set forth with particularity in what respects the development plan would or would not be in the public interest, including but not limited to findings of fact and conclusions on the following:

- 1) In those respects in which the development plan is or is not consistent with the comprehensive plan for the development of the municipality;
- 2) The extent to which the development plan departs from zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest;
- 3) The purpose, location and amount of the common open space in the planned residential development, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development;

- 4) The physical design of the development plan and the manner in which said design does or does not make adequate provision for public services, provide adequate control over vehicular traffic, and further the amenities of light and air, recreation and visual enjoyment;
 - 5) The relationship, beneficial or adverse, of the proposed planned residential development to the neighborhood in which it is proposed to be established; and
 - 6) In the case of a development plan which proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public and of the residents of the planned residential development in the integrity of the development plan.
- c) In the event a development plan is granted tentative approval, with or without conditions, Borough Council may set forth in the official written communication the time within which an application for final approval of the development plan shall be filed or, in the case of a development plan which provides for development

over a period of years, the periods of time within which applications for final approval of each part thereof shall be filed. Except upon the consent of the landowner, the time so established between grant of tentative approval and an application for final approval shall not be less than three (3) months and, in the case of developments over a period of years, the time between applications for final approval of each part of a plan shall be not less than twelve (12) months.

8.704

STATUS OF PLAN AFTER TENTATIVE APPROVAL

- a) The official written communication provided for in this Article shall be certified by the secretary or clerk of the Borough Council and shall be filed in his or her office, and a certified copy shall be mailed to the landowner. Where tentative approval has been granted, the same shall be noted on the zoning map.
- b) Tentative approval of a development plan shall not qualify a plat of the planned residential development for recording nor authorize development or the issuance of any building permits. A development plan which has been given tentative approval as submitted, or which has been given tentative approval with conditions which have been

accepted by the landowner (and provided that the landowner has not defaulted nor violated any of the conditions of the tentative approval), shall not be modified or revoked nor otherwise impaired by action of the municipality pending an application or applications for final approval, without the consent of the landowner provided an application for final approval is filed or, in the case of development over a period of years, provided applications are filed, within the periods of time specified in the official written communication granting tentative approval.

- c) In the event that a development plan is given tentative approval and thereafter, but prior to final approval, the landowner shall elect to abandon said development plan and shall so notify the Borough Council in writing, or in the event the landowner shall fail to file application or applications for final approval within the required period of time or times, as the case may be, the tentative approval shall be deemed to be revoked and all that portion of the area included in the development plan for which final approval has not been given shall be subject to those borough ordinances otherwise applicable thereto as they may

be amended from time to time, and the same shall be noted on the zoning map and in the records of the secretary or clerk of the Borough of Jim Thorpe.

8.705

APPLICATION FOR FINAL APPROVAL

- a) An application for final approval may be for all the land included in a development plan or, to the extent set forth in the tentative approval, for a section thereof. Said application shall be made to the Borough Council and within the time or times specified by the official written communication granting tentative approval. The application shall include any drawings, specifications, covenants, easements, performance bond and such other requirements as may be specified by ordinance, as well as any conditions set forth in the official written communication at the time of tentative approval. A public hearing on an application for final approval of the development plan, or part thereof, shall not be required, provided the development plan, or the part thereof, submitted for final approval is in compliance with the development plan theretofore given tentative approval and with any specified conditions attached thereto.

b) In the event the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof, and as required by the ordinance and the official written communication of tentative approval, the Borough Council shall, within forty-five (45) days of such filing, grant such development plan final approval.

c) In the event the development plan as submitted contains variations from the development plan given tentative approval, the Borough Council may refuse to grant final approval and shall, within forty-five (45) days from the filing of the application for final approval, so advise the landowner in writing of said refusal, setting forth in said notice the reasons why one or more of said variations are not in the public interest. In the event of such refusal, the landowner may either:

- 1) Refile his application for final approval without the variations objected, or
- 2) File a written request with the Borough Council that it hold a public hearing on his application for final approval.

If the landowner wishes to take either such alternate action he may do so at any time within

which he shall be entitled to apply for final approval, or within thirty (30) additional days if the time for applying for final approval shall have already passed at the time when the landowner was advised that the development plan was not in substantial compliance. In the event the landowner shall fail to take either of these alternate actions within said time, he shall be deemed to have abandoned the development plan. Any such public hearing shall be held pursuant to public notice within thirty (30) days after request for the hearing is made by the landowner, and the hearing shall be conducted in the manner prescribed in this Ordinance for public hearings on applications for tentative approval. Within thirty (30) days after the conclusion of the hearing, the Borough Council shall by official written communication either grant final approval to the development plan or deny final approval. The grant or denial of final approval of the development plan shall, in cases arising under this Section, be in the form and contain the findings required for an application for tentative approval set forth in this Article.

- d) A development plan, or any part thereof, which has been given final approval shall be so certified without delay by the Borough Council and shall be recorded forthwith in the Office of the Recorder of Deeds before any development shall take place in accordance therewith. Upon recording of the development plan the zoning and subdivision regulations in conflict with the regulations of this Ordinance shall cease to apply to said plan. Pending completion within a reasonable time of said planned residential development or of that part thereof, as the case may be, that has been finally approved, no modification of the provisions of said development plan, or part thereof, as finally approved, shall be made except with the consent of the Borough Council.
- e) In the event that a development plan, or a section thereof, is given final approval and thereafter the landowner shall abandon such plan or the section thereof that has been finally approved, and shall so notify the Borough Council in writing; or, in the event the landowner shall fail to commence and carry out the planned residential development within such reasonable period of time as may be fixed by ordinance after final approval has been

granted, no development or further development shall take place on the property included in the development plan until after the said property is re-subdivided and is reclassified by enactment of an amendment to the municipal zoning ordinance in the manner prescribed for such amendments in the said zoning ordinance.

ARTICLE IX - ADMINISTRATION AND ENFORCEMENT

901 GENERAL PROCEDURE FOR PERMITS

- A. Persons desiring to undertake any new construction, expansion or site alteration or changes in use of a building or lot shall apply to the Zoning Officer for a zoning permit by completing the appropriate application form and by submitting the required fee.
- B. After receiving a proper application, the Zoning Officer shall either issue the permit under this ordinance or refuse the permit indicating the reasons for a refusal in writing. Such writing shall be personally delivered or mailed to the applicant and the date of such delivery shall be noted in the records of the zoning office. Certain activities require review and/or approval of the Zoning Hearing Board and/or of the Borough Council, and/or the recommendations of the Planning Commission.
- C. Appeal. If refused a Permit by the Zoning Officer, the PA Municipalities Planning Code provides for appeals processes to the Zoning Hearing Board.
- D. After the permit under this ordinance has been received by the applicant, the applicant may undertake the action permitted by the permit under this ordinance, as long as other borough ordinances are also observed. However, it is recommended that applicants wait thirty (30) days to begin construction if there is a possibility of an appeal

by another party to have the permit revoked. Any commencement of construction or a use within this thirty-day appeal period shall be at the risk of the applicant.

E. OCCUPANCY PERMIT

- (1) Upon completion of the above actions, the applicant shall apply to the Zoning Officer for an occupancy permit, where such permit is required.
- (2) If the Zoning Officer finds the actions of the applicant are in compliance with the zoning permit, approved plans and any other required township permits, an occupancy permit shall be issued to allow the premises to be occupied.

902 PERMITS AND CERTIFICATES

- A. Zoning permit required. Any of the following activities or any other activity regulated by this ordinance shall only be carried out after receipt of a zoning permit and in compliance with this ordinance:
- (1) Erection, construction, movement, placement or extension of a structure, building or sign.
 - (2) Change of the type of use or expansion of the use of a structure or area of land.
 - (3) Creation of a lot or alteration of lot lines.
- B. Repairs and maintenance. Ordinary repairs and maintenance to existing structures that do not infringe upon a required setback may be made without a permit

under this ordinance, if such work does not involve a change in use or an expansion, construction or placement of a structure and does not involve any other activity regulated by this ordinance.

C. TYPES OF USES

(1) Permitted by right uses. The Zoning Officer shall issue a permit under this ordinance in response to an application for a use that is "permitted by right" if it meets all of the requirements of this ordinance.

(2) Special exception use or use requiring a variance. A permit under this ordinance for a use requiring a special exception or variance shall be issued by the Zoning Officer only upon the written order of the Zoning Hearing Board after a hearing.

(3) Conditional use. A permit under this ordinance for a conditional use shall be issued by the Zoning Officer only upon the written order of the Borough Council, after the Planning Commission has been given an opportunity to review the application.

D. APPLICATIONS

(1) Any request for a decision or variance by the Zoning Hearing Board or an appeal to the Board of a determination of the Zoning Officer or a request for a zoning permit shall be made in writing on a

form provided by the borough. Such completed application, with any required fees, and with any required site plans or other required information, shall be submitted to the zoning officer. The applicant is responsible to ensure that the zoning officer notes the date of the official receipt on the application.

- (2) Six (6) copies of a site plan shall be submitted if an application requires action by the Zoning Hearing Board, and three (3) copies shall be submitted if action by the Board is not required. Such site plan shall be drawn to scale.
- (3) Any application to the Zoning Officer or Zoning Hearing Board shall include the following information, unless the Zoning Officer determines that a site plan or such information is unnecessary to determine compliance with this ordinance:
 - (a) The location and dimensions of the lot.
 - (b) Locations, dimensions and uses of existing and proposed structures, parking and loading areas and locations of existing and proposed uses of areas of land.
 - (c) The name and address of the applicant or appellant.

- (d) The name and address of the owner of the affected property.
 - (e) A description of the proposed use of property.
 - (f) Locations of individual or clusters of healthy trees over six (6) inches in trunk diameter [measured four (4) feet above the adjacent ground level] proposed to be removed or preserved.
 - (g) Such additional information that the Zoning Officer may determine is reasonably necessary to determine compliance with this ordinance.
 - (h) All other applicable information listed on the official borough application form.
- (4) Submittals to the Board. An application requiring a site plan and action by the Zoning Hearing Board shall also include the following information, unless the Zoning Officer determines that such information is unnecessary to determination of whether the proposal complies with this ordinance:
- (a) The information listed in Subsection D(3) above.
 - (b) The present zoning district and major applicable lot requirements.
 - (c) A description of the proposed nonresidential operations and storage in sufficient detail to

indicate potential nuisances and hazards regarding noise, large truck or other vehicle traffic, glare, odors, dust, fire or toxic or explosive hazards or other significant public health and safety hazards.

- (d) If a nonresidential use is proposed within close proximity to dwellings, a description of hours of operation.
 - (e) A listing of any sections of this ordinances being appealed, with the reasons for any appeal.
- (5) The Zoning Officer may submit a copy of any plan and application to any appropriate agencies and/or individuals (such as the Planning Commission or Borough Engineer) for review and comment.
- (6) Other laws. The Zoning Officer may delay issuance of a permit under this ordinance if the Zoning Officer has reason to believe that such a use would violate another borough, state, or federal law or regulation, until the applicant proves compliance. However, if the applicant proves that the proper application(s) for a state or federal approval have been duly submitted, then a permit under this ordinance may be issued conditioned upon such future state or federal approval.

(7) Ownership. No person other than the legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in land, shall submit a zoning application.

E. ISSUANCE OF PERMIT

- (1) The Zoning Officer should issue or refuse an application for a zoning permit for a permitted by right use within fifteen (15) days after the date a complete application is received, except as specifically provided for in this ordinance (such as if a site plan review is required) and except if an extension is granted by the applicant.
- (2) At least three (3) copies of any permit required under this ordinance shall be made.
- (3) One (1) copy of any such permit shall be retained in borough files and one (1) copy shall be retained by the applicant. A copy of any such permit shall be shown by the applicant to the Zoning Officer upon the Zoning Officer's request.

(4) Changes to approved plans.

(a) After the issuance of a permit and/or approval of a site plan under this ordinance by the borough, such approved application and/or site plan shall not be changed without the written consent of the Zoning Officer.

(b) Changes to a site plan approved by the Zoning Hearing Board as a special exception use or by the Borough Council as a conditional use shall require re-approval of the changes by such bodies if the Zoning Officer determines that such changes significantly affect matters that were within their approval. Such approval by the Hearing Board or the Council is not required for minor technical adjustments or corrections of information that do not affect the significant features of the site plan and the intensity of the use, as determined by the Zoning Officer.

(5) Expiration of permits. A zoning permit shall expire after one (1) year from the date of issuance, unless:

(a) Such work begins within such time and is duly continued; or

(b) Such permit is extended by the Zoning Officer for an additional ninety-day period.

(6) Within twelve (12) months after the initiation of work under a zoning permit, when such permit involves new construction or expansion of a building, the exterior of the building shall be completely finished, the lot shall be brought up to grade, the surrounding ground level shall be smoothed and no stockpiles of earth shall remain around the building.

F. Revocation of permits. The Zoning Officer shall revoke a permit or approval issued under the provisions of the Zoning Ordinance in case of:

- (1) Any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based. (The Pennsylvania Criminal Code provides for penalties for providing false information to a municipal employee in the carrying out of his/her duties).
- (2) Violation of any condition lawfully imposed upon a special exception or conditional use.
- (3) Any work being accomplished or use of land or structures in such a way that does not comply with this ordinance or an approved site plan or approved permit application.

(4) Any other just cause set forth in this ordinance.

G. CERTIFICATE OF USE AND OCCUPANCY

(1) It shall be unlawful to use and/or occupy any structure, building, sign and/or land or portion thereof for which a permit is required herein until a certificate of use and occupancy for such structure, building, sign and/or land or portion thereof has been issued by the Zoning Officer.

(2) The applicant shall apply for a certificate of use and occupancy using forms supplied by the borough.

(3) The application shall state the intended use and/or occupancy of any structure, building, sign and/or land or portion thereof.

(4) The zoning officer should inspect the structure, building, sign or land within ten (10) days after receiving notification that the work provided for in the permit application has been completed. If the zoning officer is satisfied that such work is in compliance with the permit and the borough regulations, the certificate of use and occupancy shall be issued.

(5) The applicant shall keep the original or a true copy of the certificate of use and occupancy available for official inspection at all times.

H. Other permits. See other applicable borough ordinances concerning other required permits, such as electrical and plumbing codes.

I. CERTIFICATE OF NONCONFORMING USE OR STRUCTURE

(1) The Zoning Officer may, but is not required to, identify and register nonconforming uses and structures.

(2) When specifically requested by the landowner, and when sufficient evidence is provided by the landowner of such fact, the Zoning Officer shall issue a certificate of nonconformity. Such certificate shall state that a lot or structure is legally nonconforming, to the best knowledge of the Zoning Officer.

903 ZONING OFFICER

A. APPOINTMENT

(1) The Zoning Officer(s) shall be appointed by the Borough Council. The Zoning Officer(s) shall not hold any elective office within the borough, but may hold other appointed offices. Such Zoning Officer(s) may include a Deputy Zoning Officer, who may exercise all of the powers of the Zoning Officer.

(2) The compensation for the Zoning Officers shall be determined by the Borough Council. The Zoning

Officer(s) shall continue to serve until such time as the Borough Council may declare otherwise.

B. Duties and Powers. The Zoning officer shall:

- (1) Administer the Zoning Ordinance.
- (2) Receive and examine all applications required under the terms of this ordinance and issue or refuse permits within this ordinance.
- (3) Receive complaints of violation of this ordinance and issue a written notice of violation to any person violating any provision of this ordinance.
- (4) Keep records of applications, permits, certificates, written decisions and interpretations issued, of variances granted by the Board, of complaints received, of inspections made, of reports rendered and of notice or orders issued, and make all required inspections and perform all other duties as called for in this ordinance.

C. The Zoning Officer shall not have the power to permit any activity which does not conform to this ordinance.

904 ZONING HEARING BOARD ACTIONS AND VARIANCES

A. APPOINTMENT

- (1) The Zoning Hearing Board shall be continued and shall consist of three (3) residents of the borough appointed by the Borough Council, unless a differing number of members are authorized by

another valid borough ordinance. Two (2) alternate members shall be appointed within the provisions of the PA Municipalities Code.

(2) Board members shall serve terms of three (3) years, so fixed that the term of office of no more than one (1) member expires each year.

(3) Members of the Board shall hold no other office in the municipality.

B. Vacancies. The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of a term.

C. Removal of members. See Section 905 of the PA Municipalities Planning Code.

D. ORGANIZATION

(1) Officers. The Board shall elect officers from its own membership. Officers shall serve annual terms and may succeed themselves.

(2) Quorum. For the conduct of any hearing and taking of any action a quorum shall not be less than a majority of all members of the board, except that the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the

Board, as provided by the Pa Municipalities Planning Code.

(3) Rules. The Board may make, alter and rescind rules and forms for its procedure, consistent with all applicable borough ordinances and state law.

(4) Fees. See Section 909, re: Filing fees and costs

E. Zoning Hearing Board functions. In addition to any other responsibilities stated in the PA Municipalities Planning Code, the Zoning Hearing Board shall be responsible for the following:

(1) Appeal of a decision by the Zoning Officer.

(a) The Board shall hear and decide appeals where it is alleged by the appellant (a person affected or any agency of the borough) that the Zoning Officer has failed to follow prescribed procedures or has misinterpreted or misapplied any valid provision of this ordinance.

(b) See time limitations for appeals in Subsection G.

(2) Challenge to the validity of the ordinance or map.

(a) The Board shall hear challenges to the validity of this ordinance filed with the Board, in writing, by the landowner affected,

any officer or agency of the borough or any person aggrieved.

(b) After the conclusion of the hearing(s), the Board shall decide all questions and shall make findings on all relevant issues of fact, within the time limits of the PA Municipalities Planning Code.

(3) Variance.

(a) The Board shall hear requests for variances filed with the Board in writing by any landowner (or any tenant with the permission of such landowner).

(b) Standards. The Board may grant a variance only within the limitations of state law. (As of 1996, the Municipalities Planning Code provided that all of the following findings must be made, where relevant:

[1] There are unique physical circumstances or conditions (including irregularity, narrowness or shallowness of lot size or shape or exceptional topographical or other physical conditions peculiar to the particular property) and that the unnecessary hardship is due to such conditions and not the circumstances or

conditions generally created by the provisions of this ordinance in the neighborhood or district in which the property is located.

[2] Because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and a variance is therefore necessary to enable the reasonable use of the property.

[3] Such unnecessary hardship has not been created by the appellant.

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

[5] The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

(c) In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this ordinance.

(4) SPECIAL EXCEPTION

(a) The Board shall hear and decide requests for all special exceptions filed with the Board in writing by any landowner (or any tenant with the permission of such landowner), as provided in this ordinance and in accordance with such standards and criteria contained in this ordinance and the procedures for Special Exception Uses.

(b) Conditions. In granting a special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in this ordinance, as it may deem necessary to implement the purposes and intent of this ordinance.

(5) Hearings. See the section regarding Board decisions and hearings following this section.

(6) Records and reports. The staff to the Board shall keep full public records of its business.

(7) Court appeals. In the case of an appeal from the Board to the Court of Common Pleas, the appellant

shall make the return required by law and should promptly notify the Borough Zoning Hearing Board Solicitor of such appeal.

- (8) Appeal by the Zoning Officer. In case of any uncertainty in the interpretation of district boundaries, the Zoning Hearing Board shall determine their location. Applicants for such a hearing shall not be subject to hearing fees for hearings made necessary by uncertainty on the part of the Zoning Officer.

F. Applications to the Board. See subsection 902D.

G. Time limitations for appeals. The time limitations for appeals shall be as follows:

- (1) No person shall be allowed to file any appeal with the Zoning Hearing Board later than thirty (30) days after the decision by the Zoning Officer that is being appealed has been officially issued or appeal with the County Court of Common Pleas later than thirty (30) days after a decision of the Zoning Hearing Board has been officially issued, except as may be provided under Section 914.1 of the PA Municipalities Planning Code.

- (2) The failure of an aggrieved person other than the landowner to appeal an adverse decision directly

related to a preliminary subdivision or land development plan shall preclude an appeal from a final plan approval except in the case where the final submission substantially deviates from the approved preliminary plan.

(3) This thirty-day time limit for appeals shall not apply to the revocation of a permit by the borough.

H. Stay of proceedings. See Section 915.1 of the PA Municipalities Planning Code.

I. Time limitations on permits and variances.

(1) After a variance is approved or approval is officially authorized under this ordinance, then a permit shall be secured by the applicant within six (6) months after the date of such approval or authorization. Such action under such permit shall then begin within twelve (12) months of the issuance of the permit. For completion deadlines for exterior work, see subsection E(6) under the section on Permits and Certificates.

(2) If the applicant submits complete plans for a required site plan review or subdivision or land development approval or special exception or conditional use approval that is related to the variance or issuance of a permit under this ordinance within the above time limits, then such

time limits shall begin after such plan review is completed or such plan approval is granted.

(3) For good cause the Zoning Officer may, upon application in writing stating the reasons therefore, extend in writing the application period to up to eighteen (18) months.

(4) If an applicant fails to obtain the necessary permits within the above time period or after obtaining the permit fails to diligently commence substantial construction within twelve (12) months or allows interruptions in substantial construction of longer than six (6) months, it shall be conclusively presumed that the applicant has waived, withdrawn or abandoned the approval, and the Board may, after ten (10) days' minimum written notice, rescind or revoke all such approvals, variances and permits if the Board finds that such rescission or revocation is justified.

905 BOARD HEARINGS AND DECISIONS

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

A. Notice of hearings. Notice of all hearings of the Board shall be given as follows:

(1) Ad. Public notice shall be published, as defined by Section 107 of the PA Municipalities Planning

Code. The notice shall state the time and place of the hearing and the particular nature of the matter to be considered.

(2) Posting. Notice of such hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing. It is the responsibility of the applicant to ensure that such notice is posted and remains posted until the hearing.

(3) Persons given notice. Written notice shall be given to the applicant and the Zoning Officer. Notice should be given to the Planning Commission, Borough Council and owners of record of property abutting or directly across the street from the lot lines for the subject property. Also, such notice shall be given to any other person or group (including civic or community organizations) who has made a written timely request for such notice. Any such notices should be mailed or delivered by a borough representative to the last address known to the borough. Such notice should be intended to be received at least two (2) weeks prior to the hearing date.

(4) Adjacent municipalities. In any matter which relates to a property which lies within five

hundred (500) feet of the boundary of another municipality, except boundaries separated by a perennial river, and which the borough staff determines may have a significant impact on that municipality, the borough staff should transmit to the offices of the adjacent municipality a copy of the official notice of the public hearing on such matter at least seven (7) days prior to the hearing date. Representatives of any adjacent municipality shall have the right to appear and be heard at the public hearing.

- (5) Fees. The Borough Council may, by resolution, establish a reasonable fee schedule, based on cost, to be paid by the applicant for any notice required by this ordinance and those persons requesting any notice not required by this ordinance.

B. PARTIES IN HEARING

- (1) The parties to a hearing shall be the borough, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board.
- (2) The Board shall have power to require that all persons who wish to be considered parties enter

appearance in writing on forms provided by the Board for that purpose.

- C. Oaths and subpoenas. The chair of the Board or Hearing Officer shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents reasonably needed by and requested by the parties.
- D. Representation by counsel. The parties shall have the right to be represented by legal counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on relevant issues.
- E. Evidence and record. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded. The Board or the hearing officer, as applicable, shall keep a record of the proceedings as required by state law.

F. COMMUNICATIONS OUTSIDE OF HEARINGS

- (1) The Board shall not meet with, visit the site with or directly communicate specifically on the matter with the applicant or any officially protesting party or their representatives in connection with any issue involved, except if opportunity is

provided for the applicant and any officially protesting party to participate.

(2) The Board shall not take notice of any communication, reports, staff memoranda or other materials unless the parties are afforded an opportunity to examine and contest the material so noticed. This restriction shall not apply to advice from the Board's solicitor.

G. Advisory review. The Zoning Hearing Board may request that the Planning Commission or Borough Engineer provide an advisory review on any matter before the Board. Such review may also be volunteered by the Planning Commission.

H. Initiation of hearings. A hearing required under this ordinance shall be initiated within sixty (60) days of the date of an applicant's request for a hearing, unless the applicant has agreed in writing to an extension of time. A request for a hearing by an applicant shall not be accepted prior to submission of a duly filed application.

I. Decision/findings.

(1) The Board shall render a written decision or make findings (when no decision is called for) on each application within forty-five (45) days after the last hearing on that application before the Board,

unless the applicant has agreed in writing to an extension of time.

(2) Where the application is contested or denied, the decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons for such conclusions.

(3) Any conclusion based on any provision of the PA Municipalities Planning Code or of this ordinance shall contain a reference to the provision relied on.

J. Notice of decision. A copy of the final decision or a copy of the findings (when no decision is called for), shall be personally delivered or mailed to the applicant or his/her representative at their last known address not later than the time limit established by Section 908 of the PA Municipalities Planning Code. The Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined to all other persons who have filed their name and address with the Board not later than the last day of the hearing.

906 APPEALS

A. In general. All appeals of this ordinance or any action of the Borough Council, the Zoning Officer or the Board

under this ordinance shall conform with Article X-A of the State Municipalities Planning Code.

- B. Procedural defects in enactment. Allegations that this ordinance or any amendment was enacted in a procedurally defective manner shall be appealed directly to the court and be filed not later than thirty (30) days from the intended effective date of the ordinance or amendment.
- C. To the Zoning Hearing Board. Appeals to the Board shall comply with the requirements stated in the previous section.

907 AMENDMENTS TO THIS ORDINANCE

- A. Borough Council may amend, challenge or repeal any or all portions of this ordinance on its own motion or upon agreeing to hear a written request of any person, entity or the Planning Commission.
- B. Before voting on the enactment of an amendment, the Borough Council shall hold a public hearing thereon, following the procedural requirements of the State Municipalities Planning Code, including public notice.

C. REVIEW OF AMENDMENTS

- (1) In the case of an amendment other than that prepared by or under the direction of the Planning Commission, the Borough Council shall submit each such amendment to the Planning Commission at least thirty (30) days prior to the hearing on such

proposed amendment and permit the Commission an opportunity to provide recommendations.

(2) The borough shall submit the proposed amendment to any county planning agency for recommendations at least thirty (30) days prior to the hearing on such proposed amendment. See Section 609(3) of the Municipalities Planning Code.

D. Changes after a hearing. If, after any public hearing held upon an amendment, the proposed amendment is revised or further revised to include or exclude land previously not affected by it, the Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.

E. Application for ordinance amendment. Any request for amendment of the Zoning Ordinance (including supplement, change or repeal) by any person or entity (other than the borough staff, Planning Commission, Borough Council or committee appointed by the Borough Council or under the direct oversight of such entity) shall include the following:

(1) A statement of why the change would be in the best interests of the borough.

(2) A statement addressing any adverse affects on adjacent residences.

- (3) A statement addressing any major traffic access or congestion concerns.
- (4) A map showing the proposed boundaries of any proposed map changes, the existing zoning of the land and of adjacent lands and the current uses of adjacent lots.
- (5) A statement explaining proposed extensions and major improvements, if needed, of public water and sewer systems to serve the land area.
- (6) An escrow account to fund actual costs of legal advertisements and professional reviews of the proposed amendments.

F. Traffic impacts of zoning amendments. The Planning Commission or the Borough Council may require an applicant for a zoning amendment to fund a traffic impact study following standard methods and completed by a qualified traffic engineer. Such a study shall take into account the entire land area proposed for a change, with an emphasis on the net projected traffic increase from the proposed amendment compared to the existing zoning, based upon reasonable assumptions about the intensity and type of development.

G. Notification of proposed Zoning Map amendment. If a Zoning Map amendment is requested by a private entity and is not considered at the same public hearing as Zoning

Map amendments proposed by borough officials, then at least then (10) days prior to the hearing on the proposed change, the applicant shall send or have delivered, in person, written notice of the proposed change including the hearing date and time and a borough official to contact for more information. Such notice shall be provided to all owners of record of all property proposed to be rezoned (other than the applicant) and all property directly abutting the land to be rezoned.

- H. Time guideline on reviewing amendment. If a zoning amendment is properly requested in writing and submitted together with any required fees to the Zoning Officer outside of the curative amendment process, the Planning Commission should hold an initial public meeting on such proposed amendment within sixty (60) days of receiving such request, unless the Commission determines at a regular meeting that such request is not worthy of further consideration.

908 CURATIVE AMENDMENTS

- A. Submittal. A landowner who desires to challenge on substantive grounds the validity of this ordinance which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the Borough Council with a written request that this

challenge and proposed amendment be heard and decided as provided in the PA Municipalities Planning Code.

- B. Curative fees. For a curative amendment request, the applicant shall pay the borough all fees required under the applicable borough fee schedule and, at a minimum, shall compensate the borough for all actual expenses for legal advertising.

909 FILING FEES AND COSTS

- A. Fee schedule. The Borough Council has established by resolution a schedule of fees and a collection procedure relating to all specifications filed pertaining to this ordinance. The fee schedule may be based upon the type of application and the breadth of the proposed development (such as acreage, numbers of lots and type of use) to most accurately reflect the Borough's actual costs.
- B. No application or appeal shall be considered filed until all fees are paid, and the form supplied by Zoning Department is completed.

910 ENFORCEMENT: VIOLATIONS AND PENALTIES

- A. Powers and Duties. If the Zoning Officer shall find that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation, and ordering the action necessary to correct it. Such action may include ordering the

discontinuance of unlawful use of land or structures, the removal of unlawful structures or unlawful additions and alterations, the discontinuance of any unlawful work being done, or such action as is deemed necessary to correct the violation. In addition to civil enforcement proceeding, the Zoning Officer shall, with the approval of the Borough Council or when directed by them, institute appropriate action or proceeding in the name of the borough to prevent, restrain, correct or abate the violation.

B. Enforcement Notice. The Zoning Officer shall send an enforcement notice to the owner of record, to any person who has filed a written request to receive an enforcement notice or any other person against whom the borough intends to take action, substantially in the form prescribed by Section 616.1 of the PA Municipalities Planning Code. The Zoning Officer is hereby authorized to institute civil enforcement proceedings as provided by Section 10617.2 of the PA Municipalities Planning Code as a means of enforcement.

C. Complaints Regarding Violations. Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Officer. The Zoning Officer shall record the complaint, investigate immediately, and take action thereon as provided by this ordinance. The Zoning Officer shall provide a written response to the

complainant stating his factual findings regarding the alleged violation and the follow up actions taken.

- D. Aggrieved person. Any aggrieved owner or tenant of real property may institute any appropriate proceeding to prevent a violation of this ordinance upon proper notice to the borough pursuant to the requirements of Section 617 of the PA Municipalities Planning Code.
- E. Interpretation of Ordinance Provisions. The Zoning Officer shall administer the Zoning Ordinance in accordance with its literal terms. He shall not have the power to permit any construction or any use or change of use which does not conform to the Zoning Ordinance. Should the Zoning Officer be in doubt as to the meaning or intent of any provision of this Ordinance, or as to the location of any District boundary line on the official Zoning Map, or as to the propriety of issuing a zoning permit in a particular case, he shall appeal the matter to the Zoning Hearing Board, as provided in this ordinance, for interpretation and decision.
- F. Inspection of Premises. The Zoning Officer shall have the right and authority of applicable law, at any reasonable hour, to enter any building, structure, premises, lot or land, whether already erected or in use, or under construction, for the purpose of determining

whether or not the provisions of this ordinance are being complied with.

- G. Any person, partnership or corporation who or which has violated or permitted the violation of any provisions of this ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough of Jim Thorpe, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there as been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event until the fifth (5th) day following the date of the determination of violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation.

All judgments, costs and reasonable attorney fees collected for the violation of this ordinance shall be paid over to the Borough. If a party appealing an Enforcement Notice wins before the Zoning Hearing Board or prevails in a subsequent court appeal, the filing fee must be returned.

H. 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.

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

911 LIABILITY

A. Neither the approval nor the granting of any review, issuance of permit or approval related to construction, activity within the floodplain, site plan review, subdivision or land development approval, erosion control, stormwater runoff, activity on steep slopes or any other review or permit of this ordinance, by an officer, employee, consultant or agency of the borough, shall constitute a representation, guaranty or warranty of any kind by the borough, or its employees, officials, consultants or agencies, of the practicality or safety of any structure, use or

subdivision and shall create no liability upon, nor a cause of action against, such public body, official, consultant or employee for any damage that may result pursuant thereto.

- B. If the Zoning Officer mistakenly issues a permit under this ordinance, the borough shall not be liable for any later lawful withdrawal of such permit for valid cause shown.

912 PUBLIC UTILITY EXEMPTIONS

See Section 619 of the PA Municipalities Code.

ORDINANCE 97-12

DULY ENACTED AND ORDAINED BY THE COUNCIL OF THE BOROUGH OF JIM THORPE, CARBON COUNTY,
PENNSYLVANIA, THIS 10th DAY OF APRIL, 1997.

BOROUGH OF JIM THORPE



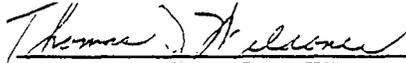
Michael J. Sofranko, President of Council

ATTEST:



LOUISE McCLAFFERTY, BOROUGH SECRETARY

APPROVED THIS 10th DAY OF APRIL, 1997



THOMAS J. WILDONER, MAYOR

JIM THORPE BOROUGH ZONING CODE

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ORDINANCE NO. 2002-01

BY THE BOROUGH COUNCIL OF THE BOROUGH OF
JIM THORPE, CARSON COUNTY, PENNSYLVANIA,
AMENDING THE ZONING ORDINANCE FOR THE BOROUGH OF
JIM THORPE, PENNSYLVANIA, TO PROVIDE FOR THE
USE AND REGULATION OF COMMERCIAL
COMMUNICATION TOWERS

BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of Jim Thorpe, Carbon County, Pennsylvania, and IT IS HEREBY ORDAINED by the same, after reference to the Planning Commission of Carbon County and upon the recommendation of the Jim Thorpe Borough Planning Commission, after review of the Borough's Comprehensive Plan, and after Public Hearing pursuant to the public notice given according to law, that the Zoning Ordinance for the Borough of Jim Thorpe is amended, as follows:

Section I: Revise Section 4.902, Permitted Uses for the I-Industrial District, by adding as follows:

j) Commercial Communications Towers.

Section II: The following language is adopted to be included as new in Section 7.1600 of the Jim Thorpe Borough Zoning Ordinance to address "Commercial Communication Towers":

7.1600 COMMERCIAL COMMUNICATIONS TOWERS.

This section prescribes the standards which must be met prior to the erection of a new commercial communications tower (hereinafter referred to as "Tower") within the Borough.

a) DEFINITIONS: For the purposes of this section, the following definitions shall apply:

American National Standards Institute (ANSI): A national organization which formulates guidelines and standards. ANSI standards are recognized as authoritative by the FCC.

Antenna: A system of electrical conductors that transmit or receive radio waves.

Cellular Telephone: A system providing portable telephone service to specific subscribers. The system works on a line of sight principle. Each company must set up a "grid" system of antennas on hilltops to provide complete coverage.

Channel: A segment of a frequency band assigned to a specific user.

Commercial Communications Tower: A structure, partially or wholly exterior to a building, used for mounting antennas which transmit or retransmit radio signals.

Construction Permit: A document issued by the FCC as to a broadcast applicant giving permission to construct a radio or TV broadcast station. It is not the same as a station license.

Electromagnetic Radiation (EMR): A technical term for the nature of energy emitted by a transmitting antenna.

FM/Television Broadcasting: Transmission of radio and/or television programs intended for reception by the general public. An FM/Television broadcasting Tower shall mean a Tower maintaining the primary or main transmitter of an FCC licensed broadcast station.

Height Above Average Terrain (HAAT): A technical term used by the FCC to determine the effective height of an antenna by considering the effects of terrain variations in the coverage area provided by the antenna.

Height of Tower: The overall height of the Tower from the base of the Tower to the highest point of the Tower, including, but not limited to, antennas, transmitters, satellite dishes or any other structures affixed to or otherwise placed on the Tower. If the base of the Tower is not on the ground level, the height of the Tower shall include the base of the building or structure to which the Tower is attached.

Intermodulation: A technical term referring to the possible mixing of two transmitted signals which creates unwanted, and potentially interfering signals.

Land-Mobile Systems: Radio Communication service for mobile or stationary units in which each user is assigned a particular frequency. It includes conventional two way radio, special mobile radio service and one-way paging.

Lease Tower: A Tower whose owner has as his principal business the leasing of Tower space to other users.

Point-to-Point Microwave: Communication between specific points using frequencies above 900 MHz; normally transmitted between two Towers optimally located for line of sight transmission. Uses low power levels.

RF Interference: Disturbances in reception caused by intruding signals or electrical current.

Structural Capacity: A term describing the physical ability of a Tower and associated antennas to withstand design loading without collapsing.

- b) PRINCIPAL USE. Towers are a principal use. No other principal use is permitted on a lot with a Tower. (Refer to Section m)3.d for cellular telephone towers.)
- c) TOWER CLASSIFICATIONS. A Tower and accessory facilities may be permitted for the following uses if they comply with all of the requirements of this section:
 - 1) FM/Television Broadcasting
 - 2) Land mobile systems.
 - 3) Cellular telephone
 - 4) Fixed point-to-point microwave
 - 5) Lease Tower
 - 6) Any other communications use not specifically listed or covered in any of the above 5 categories.
- d) SETBACK REQUIREMENTS
 - 1) The distance from the base of the proposed Tower to the nearest point on the lot line shall not be less than one-half (1/2) of the full height of the Tower. (Refer to Section m)3.d for Cellular telephone towers.)
 - 2) Guy wire anchors, if used, shall be set back a minimum of 25 feet from any lot line.
 - 3) If additional Towers are present on the same lot, the distance from the base of the proposed Tower to the base of the nearest Tower, if it is self-supporting, or the nearest guy anchor of a non-self supporting Tower, shall not be less than the full height of the tallest Tower.

- e) ACCESSORY FACILITIES. Accessory facilities are permitted on the same lot as a Tower, subject to the following conditions:
- 1) A single accessory facility containing equipment and control devices for the continuing operation of a Tower may be located on the lot.
 - 2) No building or facility may be used as an office or as a broadcast studio. No building or facility may be used for a long-term vehicle storage or for other outdoor storage.
 - 3) No on-site employees shall be permitted to utilize any accessory facility as an office. Employees are permitted to visit the site as often as necessary for maintenance and inspection of the Tower and its accessory uses.
 - 4) Accessory facilities may be lighted for security or for maintenance purposes. Any such lighting shall be shielded and no lights shall be emitted upward or spill over onto adjacent properties. Upward light will be permitted only on a temporary basis as may be required for emergency Tower maintenance or repair.
 - 5) Lighting of parking lot areas and accessory facilities must meet the requirements of this or any other applicable Borough ordinance.
- f) PARKING REQUIREMENTS. Two (2) off-street paved, parking spaces per Tower shall be required. The parking spaces

shall conform to the parking standards of the Zoning Ordinance.

- g) RF INTERFERENCE TO EXISTING FACILITIES. The applicant shall demonstrate that the proposed transmitting facility will not cause RF interference to any existing communications services (including, but not limited to, other Towers or Transmitting Facilities, communication services reception by other property owners, etc.) in accordance with the FCC requirements for the applicant's class of operation.
- h) EMR. The applicant shall provide information as to whether the proposed RMS field intensity of EMR from applicant's antenna(s) measured at the nearest point on the boundary of applicant's site from the proposed antenna will exceed the levels allowed under ANSI standard C95.3. This is a requirement to provide information and not a requirement to meet the standard.
- i) ENVIRONMENTAL IMPACT. All new Towers proposed in the Borough shall conform to the following environmental impact guidelines:
 - 1) Existing on-site vegetation shall be preserved to the maximum extend practicable.
 - 2) If the proposed Tower is less than 200 feet high, and is exempt from any special FAA marking requirements, the Tower shall be painted silver above the tree line level and painted green below the tree line level.

- 3) Artificial lighting is prohibited on all proposed Towers unless required by the FAA. When artificial lights is requires, the use of strobe lighting is prohibited unless specifically required by the FAA.
- 4) Where the site abuts a public street or a lot that is either zoned residential or used for a residential use, and where the base of the Tower can be seen from the public street or from a dwelling on the residential lot, the site perimeter shall be buffered by planting natural screening which blends in with existing vegetation to provide an effective screen. Such screening shall meet the requirements of Sections 2.317 and 4.109 of the Zoning Ordinance. Existing vegetation, fences or walls may be used if the Zoning Officer finds:
 - a) They achieve about the same degree of screening as described in Sections 2.317 and 4.109.
 - b) New plantings would have a detrimental effect on the stability, security or maintenance of the guy wires.
 - c) They are needed for surveillance and security of structures to be erected on the lot.
- j) OBSERVATORY TELESCOPE LINE OF SIGHT CLEARANCE. There shall be maintained an unobstructed 20 degrees line-of-sight measured from the horizontal plane surrounding any observatory telescope where the observatory telescope has

a greater than 25 centimeters aperture and the observatory facility is erected for the public use for research and/or educational purposes.

k) FAA LIGHTING AND MARKING REQUIREMENTS.

Lighting shall only be installed on a Tower if it is required by the FAA. If lighting is not required by the FAA or any other governmental agency having jurisdiction, then the lighting shall not be installed on a Tower. Only the minimum lighting necessary to meet governmental requirements shall be permitted. If strobe lights or flashing mechanisms are not required by such government agencies, then such lighting shall not be permitted.

l) TOWER DESIGN AND INSTALLATION.

1) All Towers shall be built and certified in accordance with EIA-22-D.

2) If a non-self supported Tower is proposed, the applicant must use a guy wire configuration which is at least the minimum specified by the Tower manufacturer.

3) All new Towers permitted after the effective date of this Section must be engineered to accommodate additional new users.

4) The base of the Tower shall be surrounded by a secure fence with a minimum height of 8 feet.

5) The Tower design and installation shall also comply with any additional Federal, State and local regulations as may apply.

m) SPECIFIC ADDITIONAL REQUIREMENTS FOR EACH TOWER CLASSIFICATION:

1) FM/Television Broadcasting Use. An applicant proposing to erect a new Tower for an FM/Television broadcasting use as defined herein shall also comply with the following standards:

a) Applicant shall demonstrate that the requested location is necessary to satisfy the signal coverage requirements mandated by the FCC for the applicant's particular class of operation.

b) Applicant shall request the minimum antenna height above ground level which will satisfy the HAAT requirements stipulated on the applicant's FCC Construction Permit provided the requested height of the Tower does not exceed 400 feet above ground level.

2) Land Mobile Radio Use. An applicant proposing to erect a new Tower for land mobile radio use as defined herein shall also comply with the following:

a) Applicant shall demonstrate that the requested location can be reasonably expected to provide the signal coverage deemed necessary by the applicant.

b) Applicant shall request the minimum antenna height above ground level which will satisfy the antenna height requirements stipulated on

the applicant's FCC license, provided the requested height of the Tower does not exceed 199 feet above ground level.

3) Cellular Telephone Use. An applicant proposing to erect a new Tower for Cellular Telephone use shall also comply with the following:

- a) Applicant shall demonstrate that the requested location is necessary to satisfy its function within the company grid system.
- b) Applicant shall demonstrate that existing tall structures within a one-quarter mile radius of the proposed operation will not accommodate the applicant's proposed operation. The Borough may deny the application to erect a new Tower if the applicant has not made a good faith effort to mount an antenna on an existing structure.
- c) Applicant shall request the minimum Tower height necessary to satisfy its function in the company's grid system, provided the requested height of the Tower does not exceed 199 feet above ground level.
- d) Notwithstanding any other provisions in this Section, the following shall also apply to Cellular Telephone Use since each Cellular Telephone System is set up in a unique system

of antennas to create a network for complete and adequate service:

- 1) A Cellular Telephone Tower or antenna may be located on a lot with additional principal uses or buildings as long as all requirements of this ordinance are met.
- 2) Screening requirements of Sections 2.317 and 4.109 shall be met if any cellular telephone tower is constructed within 100 feet of the Property Line (as defined in Section 2.305) of a lot zoned or used for residential purposes. The screening width shall be 20 feet. Existing vegetation, fences or walls may be used if the Zoning Officer finds that the criteria of Part i)4.a, b, or c of this Section are met.
- 4) Point-to-Point Microwave Use. An applicant proposing to erect a new Tower for point-to-point microwave use shall also comply with the following:
 - a) Applicant shall demonstrate that the requested location is necessary to satisfy its function within the overall microwave system.
 - b) Applicant shall request the minimum Tower height necessary to satisfy line of sight requirements to the next relay links in the

microwave system, provided the requested height of the Tower does not exceed 199 feet above ground level.

5) Lease Tower Use. An applicant proposing to erect a Lease Tower shall comply with the following:

a) Applicant shall demonstrate that the requested location can be reasonably expected to provide the signal coverage required by prospective users.

b) Applicant shall request the minimum antenna height above ground level which will reasonably accommodate the antenna height requirements of prospective users, provided the requested height of the Tower does not exceed 199 feet above ground level.

6) Requirements for Any Other Use. An applicant proposing to erect a new Tower for any other use shall also comply with the following:

a) Applicant shall demonstrate that the requested location can be reasonably expected to provide the signal coverage deemed necessary by the applicant.

b) Applicant must request the minimum antenna height above ground level which will satisfy the antenna height requirements stipulated on the applicant's FCC license, provided the

requested height of the Tower does not exceed 199 feet from ground level.

n) SHARED USE REQUIREMENTS

1) Lease Tower. An applicant proposing to construct a Lease Tower shall first demonstrate that the existing Tower(s) owned by the applicant, or any affiliate or subsidiary of the applicant, cannot reasonably accommodate the telecommunications equipment planned for the proposed Tower. In addition to any other evidence presented by the applicant, the applicant shall submit:

- a) A wind-loading analysis, certified by a Licensed Professional Communications Engineer or Licensed Professional Civil/Structural Engineer, which demonstrates that the proposed telecommunications equipment will exceed the structural capacity of the existing Tower, and that the existing Tower whose structural capacity would be exceeded by the applicant's proposed equipment cannot be structurally reinforced to accommodate the applicant's proposed equipment at a reasonable cost;
- b) A study that "combining" existing equipment and/or "duplexing" existing equipment is not reasonable or reasonably suitable for the new proposed equipment; and

c) An intermodulation analysis, certified by a Professional Communications Engineer, which demonstrates that the proposed new equipment will not cause undue RF interference to existing communications services on the existing Tower. If applicant demonstrates (a) and (b) to the satisfaction of the Zoning Officer then the Intermodulation Analysis may be submitted, but shall not be mandatory.

The applicant shall also provide information as to whether the combined total RMS field intensity of EMR from all emitters on the existing Tower(s) and the proposed Tower, including the applicant's proposed antenna, measured at the nearest point on the boundary of the Tower site from the nearest Tower will exceed the levels allowed under ANSI standard C95.3. This is a requirement to provide information and not a requirement to meet the standard.

2) All Tower Uses with the Exception of Lease Tower Uses. All applicants requesting permission to erect a new Tower in the Borough must demonstrate that existing Towers within a 1 mile radius of the proposed Tower cannot accommodate the Applicant's proposed operation. Documentation must be provided to show that the applicant has contacted by certified mail, return receipt requested, all Tower

owners within a one (1) mile radius of the proposed Tower and that each of these Towers cannot support the new proposed equipment. The Borough may deny the application to erect a new Tower if the applicant has not made a good faith effort to determine the suitability of existing Towers.

o. APPLICATION CONTENTS FOR A NEW TOWER. An application for permission to erect a new Tower in the Borough shall include:

- 1) A copy of applicant's FCC construction permit (for broadcast use) or FCC station license (for other uses).
- 2) A detailed site plan drawn to scale and identifying the site boundary; the proposed Tower and any existing Towers; guy wire anchors; existing and proposed structures; existing vegetation to be retained, removed or replaced; and uses, structures and land-use designations on the site and abutting parcels.
- 3) A technical description of the facility to include:
 - a) A description of the Tower and the technical, and other design factors of the Tower.
 - b) A description of the capacity of the Tower, including the number and types of antennas that it can accommodate.
- 4) A statement from the FCC, FAA and state aeronautics division that the proposed Tower complies with

applicable regulations or that the Tower is exempt from those regulations.

5) An intermodulation analysis certified by a Professional Communications Engineer, which demonstrates that the proposed new equipment will not cause under FR interference to existing Towers or transmitting facilities or communications service reception by other property owners. The applicant shall be responsible to resolve all instances of interference caused by the actual operation of the Tower that occurs after its installation.

p) APPLICATION CONTENTS FOR ADDING A NEW ANTENNA TO AN EXISTING TOWER. Prior to the installation of an antenna on an existing Tower, an applicant shall obtain a zoning permit from the Borough. The application for such permit shall include:

1) A wind-loading analysis, certified by a Licensed Professional Communications Engineer, or Licensed Professional Civil/Structural Engineer, which demonstrates that the proposed telecommunications equipment will not exceed the structural capacity of the existing Tower.

2) An intermodulation analysis which demonstrates that the proposed transmitting facility will not cause RF interference to any existing communications services (including, but not limited to, other

Towers or transmitting facilities, communication services reception by other property owners, etc.) in accordance with the FCC requirements for the applicant's class of operation. The applicant shall be responsible to resolve all instances of interference caused by the actual operation of the Tower and any additional antenna, after installation.

- 3) Information as to whether the RMS field intensity of EMR from the applicant's Tower (with all existing and proposed antennas) measured at the nearest point on the boundary of applicant's site from the proposed antenna will exceed the levels allowed under ANSI standard C95.3. This is a requirement to provide information not a requirement to meet the standard.

Section III. Severability.

If a court of competent jurisdiction declares any provision of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance shall continue to be separately and fully effective.

Section IV. Repealer.

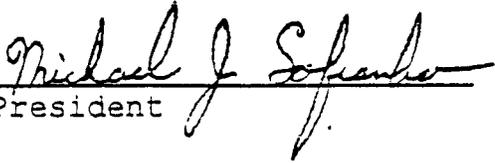
All portions of the Borough Zoning Ordinance and other resolutions or ordinances that were adopted or amended prior to this Ordinance and are clearly in direct conflict with this ordinance are hereby

repealed to the extent that they conflict. This includes, without limitation, Section 6.401 and the area, yard and height regulations of the industrial District.

Section V. Enactment.

This ordinance is enacted and ordained this 10th day of January , 2002 and shall become effective immediately.

BOROUGH COUNCIL OF THE
BOROUGH OF JIM THORPE



President

Attest:



Secretary

JIM THORPE BOROUGH
MAP SCALE 1" = 1250'

Historical boundaries were digitized from existing U.S.G.S. Quadrangle Maps. They are for general location purposes only. They may or may not be depicted in Historical Map Accuracy Surveys.

**OFFICIAL
ZONING MAP**
for the Borough of
**JIM
THORPE**
County of Carbon
Commonwealth of Pennsylvania

This Zoning Map was prepared by the Planning Commission of the Borough of Jim Thorpe, County of Carbon, Pennsylvania, on the 15th day of April, 1997.

