

HISTORY: Adopted by Borough Council of the Borough of Evans City 11-1-1976 by Ord. No. 348 as Part 13, Arts 1301, 1305, 1309, 1315, 1319, 1323, 1327, 1333, 1337, 1341 and 1345, of the 1976 Code. Amendments noted where applicable.

## **ARTICLE I**

### **Preliminary Provisions**

#### **§195-1 Title; Scope**

The provisions and maps of this Chapter shall be known as and may be cited as the “Evans City Borough Comprehensive Zoning Ordinance,” in accordance with and exercising the authority of the Pennsylvania Municipalities Planning Code, and, among other things, shall protect and promote safety, health and morals, accomplish coordinated development, provide for the general welfare by guiding and protecting amenity, convenience, future governmental, economic, practical and social and cultural facilities, development and growth, as well as the improvement of governmental processes and functions, guide uses of land and structures, type and location of streets, public grounds and other facilities, promote the conservation of energy through the use of planning practices and to promote the effective utilization of renewable energy sources, and permit the Borough to minimize such problems as may presently exist or which may be foreseen.

#### **§195-2 Purpose**

The regulations in this Chapter are deemed necessary in order:

- A. To promote, protect and facilitate any or all of the following: the public health, safety, morals and the general welfare; coordinate community development and proper density of population; emergency management preparedness and operations; airports and national defense facilities; the provisions of adequate light and air; access to incident solar energy, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, recreational facilities and public grounds; the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial use and other public requirements; as well as preservation of the natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers, and floodplains.

- B. To prevent one (1) or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.
- C. To preserve prime agriculture and farmland considering topography, soil type, and classification and present use.
- D. To provide for the use of land within the Borough for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multifamily dwellings in various arrangements, mobile homes and mobile home parks; provided, however, that no zoning ordinance shall be deemed invalid for the failure to provide for any other specific dwelling type.
- E. To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.

### **§195-3 Community Development Objectives**

In addition to the general purposes set forth in § 195-2, the following specific community development objectives relative to land use relationships, population density, criteria to guide the growth and change of housing, business, and industry, public utilities and community facilities, traffic circulation and natural resource protection have been considered in shaping the contents of this Chapter.

- A. The small town, turn-of-the-century scale and appearance of the Borough should be preserved and enhanced within the context of modern-day design and construction techniques.
- B. The existing pattern of land use should be supported and strengthened by encouraging the reuse of vacant or underutilized properties while protecting residential areas from the inroads of business activity.
- C. The main street commercial area should be recognized as a regional business center containing retail and service commercial activity, as well as office uses, and housing in the upper floors, with adequate off-street parking for patrons of local businesses.
- D. As industry declines as a source of jobs, encouragement should be given to the establishment and expansion of service-oriented businesses along Main Street. The keys are to hold existing jobs and to create new job opportunities.
- E. Housing should be available at an affordable price to all Borough residents by permitting a variety of housing types and the reuse of available properties.

- F. The functions of the Borough streets and roadways should be clear. Through traffic should be discouraged on residential streets, existing safety hazards and points of congestion reduced and a pedestrian circulation provided for.
- G. The Borough is divided into zones and districts, which regulate the location, construction, reconstruction, alteration and use of buildings, structures and land to preserve environmentally sensitive land, to protect building and structure values, to provide for a broad tax base, and to secure economy in governmental expenditures and encourage variety and quality in land uses.
- H. Housing opportunities should be consistent with the Borough's population growth and housing demand, present and future.

#### **§195-4 Higher Standard to Control**

The provisions of this Chapter shall be held to be minimum standards and requirements, adopted for the promotion of the public health, safety, morals or general welfare of Borough residents. Wherever the requirements of this Chapter are in conflict with the requirements of any other lawfully adopted rules, regulations, ordinances, or standards, the most restrictive, or that imposing the higher standard, shall govern. In addition, where the established requirement or standard is deemed by Borough Council to be inadequate in specific instances, Council, at its sole discretion, shall hold the applicant to a higher standard.

#### **§195-5 Bulk and Dimensional Requirements**

In recognition of the various topographical conformations and geographic relationships in the Borough and with consideration of the health, safety and general welfare of Borough residents, the bulk and dimensional requirements for the several districts are herewith established and set down in the Schedule of Bulk, Dimensional and General Requirements, located at the end of this Chapter.

#### **§195-6 Special Yard Requirements**

- A. In the case of through lots, minimum front yards shall be provided on all frontages. The exception to this standard is where front yard depths vary. In that situation a yard depth which is the numerical average of yard depths along the same block may be provided.
- B. In the case of corner lots which do not have reversed frontage, a front yard of the minimum required depth shall be provided abutting the street toward which the principal structure is oriented. The side yards are then identified as those yards which are neither front yards or rear yards.

- C. In the case of corner lots with two frontages, yards shall be provided having the full depth of front yards required in the district.
- D. Yard Diagrams: The yard diagrams, located at the end of this Chapter, illustrate the location of yards on rectangular lots and nonrectangular lots.

**§195-7 Limitations on Uses**

- A. Those permitted uses located in the several zones shall be subject to the following limitations: All sites in a TC District having a common boundary with an R District classified property shall erect and maintain a view-obscuring fence or dense coniferous hedge to a height of not less than six feet (6') along such common boundary for purposes of controlling access.
- B. All sites in an I District having a common boundary with an R District classified property shall have planted and maintained along such common boundary a view-obscuring coniferous greenbelt of shrubs, trees and native vegetation not less than eight feet (8') in width for screening purposes and controlling access.
- C. All permitted uses established after the effective date of this Chapter or enlargements of a use established prior to the effective date of this Chapter shall provide off-street parking and loading areas for each use and enlargement in accordance with the provisions of Article VI.
- D. Where lighted signs and illuminated areas are permitted, such illuminating devices shall be shielded and directed so as not to be visible from any R District classified property.
- E. No accessory building shall be constructed upon a lot until the construction of the principal building has been actually commenced, and no accessory building shall be used for dwelling purposes unless the main building on the lot is also being used for dwelling purposes.
- F. Unattached accessory structures may be built in a rear or side yard within three feet (3') of the rear lot line.

**§195-8 Official Zoning Map**

- A. The Borough is hereby divided into zones or districts as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Chapter.
- B. The Official Zoning Map shall be identified by the signature of the Mayor and President of the Council, attested to by the Borough Secretary and Solicitor, and bearing the Seal of the Borough under the following statement: "This certification verifies that the Official Zoning Map referred to in Article I of this

Chapter of the Code of the Borough of Evans City, Butler County, Pennsylvania was prepared and adopted June 1<sup>st</sup>, 1970.”

- C. No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Chapter. Any unauthorized change of whatever kind by any person shall be considered a violation of this Section and punishable as provided under § 195-62.

## **ARTICLE II**

### **Terminology**

#### **§195-9 Word Usage**

For the purpose of this Chapter, certain terms or words used herein are defined as follows:

- A. The word “person” includes a firm, association, partnership, trust, company or corporation as well as an individual.
- B. The present tense includes the future tense.
- C. The singular number includes the plural, and the plural number includes the singular.
- D. The word “shall” is mandatory, the word “may” is permissive.
- E. The words “used” or “occupied” include the words intended or designed or arranged to be used or occupied.
- F. The word “lot” includes the word “plot” or “parcel.”

#### **§195-10 Definitions**

The following definitions shall apply to this Chapter:

**ACCESSORY** – A use, a building or structure, part of a building or other structure, which is subordinate to and the use of which is incidental to that of the main building, structure or use on the same lot, including a private garage. If an accessory building is attached to the main building by a common wall or roof, such accessory building shall be considered a part of the main building.

**AGRICULTURAL OPERATION** - An enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock and livestock

products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry.

**ALLEY** – A passage or way, open to public travel and dedicated to public use, affording generally a secondary means of vehicular access to abutting lots and not intended for general traffic circulation.

**ALTERATIONS** – A change or rearrangement of the structure parts of existing facilities or an enlargement by extending the sides or increasing the height or depth or the moving from one location to another. In buildings for business, commercial, industrial or similar uses, the installation or rearrangement or partitions affecting more than one-third (1/3) of a single floor area shall be considered an “alteration.”

**APARTMENT** – A room or a suite of two (2) or more rooms in a multi-family dwelling or in any other building not a single-family dwelling or a two-family dwelling, occupied or suitable for occupancy as a dwelling unit for one (1) family.

**APARTMENT HOUSE** – A building or a portion of a building, designed for occupancy by three (3) or more families living separately from each other and containing three (3) or more units.

**APPLICANT** – A landowner or developer who has filed an application for development, including his heirs, successors or assigns, or who has filed an appeal or request with the Borough Council or the Zoning Hearing Board.

**APPLICATION FOR DEVELOPMENT** - Every application, whether preliminary, tentative or final, required to be filed and approved prior to start of construction or development including but not limited to an application for a building permit, for the approval of a subdivision plat or plan or for the approval of a development plan.

**BILLBOARD** – Any sign for general advertising purposes, including any display by painting, posting or affixing on any surface a picture, emblem, words, figures, numbers or lettering, with a maximum of one hundred (100) square feet in area and which is either erected on the ground or attached to or supported by a building or structure. Such sign shall be considered a structure and shall meet the standards of Section 195-37.

**BOARD** - Any body granted jurisdiction under a land use ordinance or under this act to render final adjudications.

**BOARD** – The Zoning Hearing Board of the Borough.

**BUILDING** – Any structure having a roof, supported by columns or walls, intended for the shelter or enclosure of any individual, animal, process, equipment, goods or materials. When a use is required to be within a building or where special authority granted pursuant to this Chapter requires that a use shall be within an entirely enclosed building, then the term “building” means once so designed and constructed that all exterior walls of the structure shall be solid from the ground to the roofline and shall contain no openings except for windows and doors which are designed so that they may be closed.

**BUILDING HEIGHT** – The vertical distance measured from the average elevation of the finished grade around the building to the highest point of the coping of a flat roof or to the decline of a mansard roof or to the average height of the highest gable of a pitch or hip roof. Chimneys, spires, towers, rooftop elevator facilities, tanks and similar projections, other than signs, shall not be included in calculating the height.

**BUSINESS TRANSITION OVERLAY DISTRICT** – An area with adequate infrastructure and access which can support transitional uses such as neighborhood scaled businesses.

**CARPORT** – An accessory structure to house or protect motor vehicles which is open to the weather for at least forty percent (40%) of the total area of its sides.

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

**CLINIC** – A building designed and used for the medical, dental and surgical diagnosis and treatment of patients under the care of doctors and nurses, but patients are not provided with board or room or kept overnight on the premises.

**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 of a development, not including streets, off-street parking areas, and areas set aside for public facilities.

**COMMUNITY RESIDENTIAL FACILITY** – A licensed personal care home, domiciliary care home or community home for persons who are mentally or physically challenged.

**CONDITIONAL USE** - A use permitted in a particular zoning district pursuant to the provisions in Article VI of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

**CONTRACTOR SUPPLY YARD** – A lot or portion of a lot used commercially to store equipment and materials. Supply yards do not include the wrecking, salvaging, dismantling, or storage of vehicles.

**DAY CARE CENTER** – Any facility operated for the purpose of providing care, protection and related services to children or adults during part of a 24-hour day.

**DECISION** - Final adjudication of any board or other body granted jurisdiction under any land use ordinance or this act to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the Court of Common Pleas of Butler County.

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

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

Determinations shall be appealable only to the boards designated as having jurisdiction for such appeal.

**DEVELOPER** – Any landowner, agent of such landowner or tenant with the permission of such landowner who makes or causes to be made a subdivision of land or a land development.

**DISTRICT (Base Zoning District)** – An area accurately defined as to boundaries and location on an official zoning map and within which area only certain types of land uses are permitted and within which other types of land uses are excluded, as set forth in this Chapter.

**DWELLING UNIT** – One (1) or more rooms designed for or occupied by one (1) family for living or sleeping purposes and containing kitchen facilities for use solely by one (1) family.

**ENFORCEMENT NOTICE** – A formal notification, in writing, which identifies a violation or conflict with the provisions of this Chapter and which sets a time for compliance.

**ESSENTIAL SERVICES** – Services provided by public and private utilities and/or public and private agencies, necessary for the operation of the principal use or service of the principal structure. Services include underground, surface or overhead gas, community, electrical, steam, fuel or water transmission or distribution systems, collection, supply or disposal systems, and community systems, including poles, wires, towers, mains, drains, vaults, culverts, laterals, sewers, pipes, catchbasins, water storage tanks, conduits, cables, alarm boxes, call boxes, traffic signals, pumps, lift stations and hydrants. Agency uses may include offices, maintenance facilities, parking areas and other support uses and structures.

**FAMILY** – An individual or two (2) or more persons related by blood, marriage or adoption or a group of not more than five (5) persons who are not related by blood, marriage or adoption, excluding servants, living together in a dwelling unit.

**FOREST** – An area of land, a minimum of one-fourth (1/4) of an acre (10,890 square feet) in size, covered by woody plants and trees at least half of which are a minimum of eight inches (8”) in diameter, four and one-half feet (4 1/2’) above ground level.

**FORESTRY** - The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes, which does not involve any land development.

**GARAGE, PRIVATE** – An accessory building or an accessory portion of the main building enclosed on not fewer than three (3) sides and designed or used only for the shelter or storage of vehicles owned or operated only by the occupants of the main building or buildings.

**GARAGE, PUBLIC** – A building other than a private garage used for the care, repair or storage of automobiles or where such vehicles are kept for remuneration, hire or sales, but a “public garage” shall not be used for the storage of dismantled or wrecked motor vehicles, parts or junk.

**HOME BASED BUSINESS (No Impact)** - A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use.

**HOSPITAL, ANIMAL** – A building or premises for the medical or surgical treatment of animals or pets including dog, cat and veterinary hospitals, and also provides for the boarding of hospitalized animals.

**IMPERVIOUS SURFACE** – Those surfaces which do not readily absorb stormwater. All buildings, structures, parking areas, driveways, roads, sidewalks, areas covered by concrete, asphalt and compacted stone shall be considered impervious surfaces within this definition.

**INSTITUTIONAL/CIVIC USE** – A nonprofit, religious or public use, including, but not limited to a church, library, museum, public or private school, hospital, government owned or operated building, structure or land used for public purpose.

**LAND DEVELOPMENT** - any of the following activities:

- A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
  - (1) a group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
  - (2) the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective

occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

B. A subdivision of land.

C. Development in accordance with § 503(1.1) of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

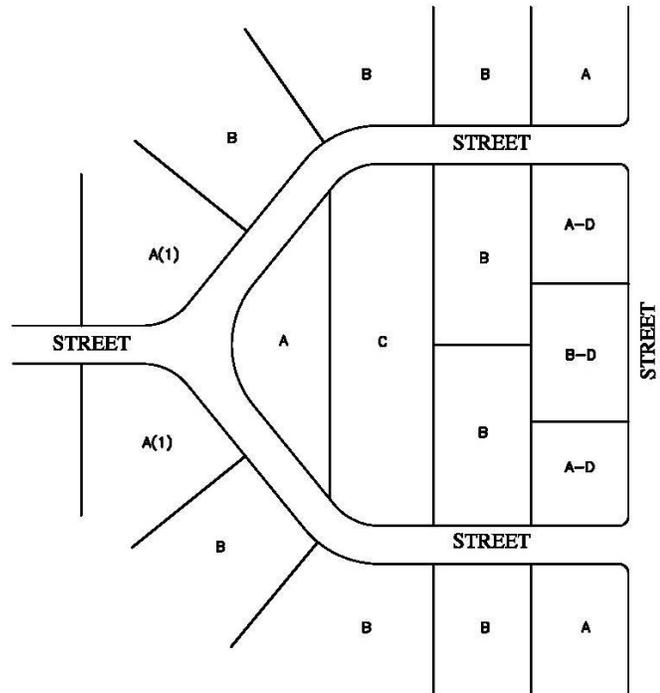
**LANDOWNER** – The legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having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

**LIGHT INDUSTRY** – Industrial uses which meet established local performance standards through the utilization of current technology and which generate lower volumes of traffic in relation to production, including, but not limited to research laboratories, printing and binding plants, packaging, small appliance manufacture, and data processing.

**LIGHT MANUFACTURING** – Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials such as plastics or resins.

**LONG TERM NURSING FACILITY** – An institution licensed to provide nursing home services to residents. The facility may be for-profit, non-profit, hospital based or operated by the County, but does not include personal care homes, domiciliary care homes, boarding homes or community care that does not operate under a long term nursing facility license.

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



**LOT TYPES** – The preceding diagram illustrates terminology used in this Chapter with reference to corner lots, interior lots, reversed frontage lots and through lots:

- A. **Corner Lot** - A lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be considered a “corner lot” if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet an interior angle of less than one hundred thirty-five degrees (135°). See lots marked “A(1)” in the diagram.
- B. **Interior Lot** – A lot other than a corner lot with only one (1) frontage on a street other than an alley.
- C. **Through Lot** – A lot other than a corner lot with frontage on more than one (1) street other than an alley. Through lots with frontage on two (2) streets may be referred to as “double frontage lots.”
- D. **Reversed Frontage Lot** – A lot in which the frontage is at right angles or approximately right angles to the general pattern in the area involved. A “reversed frontage lot” may also be a corner lot or an interior lot. (See A-D and B-D in diagram).

**MEDIATION** - A voluntary negotiating process in which parties in a dispute mutually select a neutral mediator to assist them in jointly exploring and settling their differences, culminating in a written agreement which the parties themselves create and consider acceptable.

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

**MOBILEHOME LOT** - A parcel of land in a mobilehome park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobilehome.

**MOBILE HOME PARK** - A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobilehome lots for the placement thereon of mobilehomes. Standards for the development of a mobile home park are included in the Butler County Subdivision and Land Development Ordinance which is by reference the Borough’s Subdivision and Land Development Ordinance.

**MOTEL** – A group of attached or detached buildings containing individual sleeping units where a majority of such units open individually and directly to the outside and where a garage is attached to or a parking space is conveniently located to each unit, all for the temporary use by automobile tourists or transients, and “motel” includes tourist courts, motor courts, automobile courts, automobile camps and motor lodges.

**MULTI-FAMILY DWELLING** – A building designed exclusively for occupancy by two (2) or more families living independently of each other and containing two (2) or more dwelling units.

**MUNICIPAL ENGINEER** – A professional engineer licensed to practice in the Commonwealth of Pennsylvania, duly appointed as the Borough Engineer by the Borough Council.

**NONCONFORMING LOT** – A lot the area or dimension of which was lawful prior to the adoption or amendment of this Chapter but which fails to conform to the requirements of the zoning district in which it is located because of such adoption or amendment.

**NONCONFORMING STRUCTURE** - A structure or part of a structure manifestly not designed to comply with the applicable use provisions of this Chapter or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of this Chapter or amendment or prior to the application of this Chapter or amendment to its location by reason of annexation. Such “nonconforming structures” include, but are not limited to, “nonconforming signs.”

**NONCONFORMING USE** – A use, whether of land or of a structure, which does not comply with the applicable use provisions in this Chapter or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this Chapter or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this Chapter or amendment or prior to the application of this Chapter or amendment to its location by reason of annexation.

**ONE-FAMILY DWELLING** – A detached building designed exclusively for occupancy by one (1) family and containing one (1) dwelling unit.

**OUTDOOR ADVERTISING DISPLAY** – Any card, cloth, paper, metal or painted sign, or wooden, plaster, stone or other sign of any kind or character whatsoever placed for outdoor advertising purposes on the ground or on any tree, wall, bush, rock, post, fence, building, structure or thing whatsoever. The term “placed,” as used in the definition of “outdoor advertising sign” and in “outdoor advertising structure,” includes

erecting, constructing, posting, painting, printing, tacking, nailing, gluing, sticking, carving or otherwise fastening or fixing or making visible in any manner whatsoever.

**OVERLAY ZONING DISTRICT** – A zoning district that encompasses one or more underlying or base zoning districts and that includes additional or different requirements than those required in the underlying base zoning district.

**PERSONAL CARE HOME** – A licensed facility that provides meals, shelter and personal assistance or supervision for more than three (3) children or adults who do not require nursing home care. Personal care homes will accept immobile children or adults who can be safely evacuated in an emergency.

**PLANNING COMMISSION** – The Planning Commission of the Borough.

**PRINCIPAL USE** – The primary or predominant use to which the property is or may be devoted and to which all other uses on the premises are accessory.

**PUBLIC HEARING** - A formal meeting held pursuant to public notice by the Borough Council, the Planning Commission or the Zoning Hearing Board, which is intended to inform the public and to obtain public comment prior to taking action in accordance with this Chapter.

**PUBLIC MEETING** – A forum held pursuant to notice under 65 Pa. C.S. CH. 7 (Relating to open meetings).

**PUBLIC NOTICE** - Notice published once each week for two (2) successive weeks in a newspaper of general circulation in the Evans City Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

**PUBLIC UTILITY** – A private business organization performing some public service and subject to special governmental regulations or a public agency performing similar public services, the services by either of which are paid for directly by the recipient thereof. Such services shall include but are not limited to water supply, electric power, gas and transportation for persons and freight.

**REPORT** - Any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed recommendatory and advisory

only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to any proceeding upon request, and copies thereof shall be provided at cost of reproduction.

**RETAIL, GENERAL** – A commercial enterprise that provides goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser.

**RETAIL, SPECIALTY** – Retail operations that specialize in one type or line of merchandise and which may be included in a development linked together by an architectural, historic or geographic theme.

**RETIREMENT HOME or VILLAGE** – A place of residence for several families or individuals in apartment-like quarters, rented or condominium, which may feature services to retired persons such as limited nursing facilities, minimum maintenance living accommodations and recreation programs and facilities.

**SCHOOL, PUBLIC OR PRIVATE** – An institution of learning which offers instruction in the several branches of learning required by the Commonwealth of Pennsylvania. (Institutional/Civic Use)

**SELF-STORAGE FACILITY** – A building or group of buildings divided into separate units or areas used to temporarily store personal and household goods and property for individuals, or organizations.

**SERVICES:** Establishments primarily engaged in providing assistance as opposed to products, to individuals, business, industry, government, and other enterprises including hotels and other lodging places; personal, business, repair, and amusement services; health, legal, engineering and other professional services; educational services; membership organizations; and other miscellaneous services.

- A. **AMUSEMENT AND RECREATION SERVICES:** Establishments engaged in providing entertainment for a fee and including, but not limited to, such activities as dance halls; studios; theatrical productions; bands, orchestras, and other musical entertainment; bowling alleys and billiard and pool establishments; commercial arenas, rings, rinks, and racetracks; public golf courses; coin operated devices; membership sports and health clubs; swimming pools, riding academies; carnival operations; and horseshows.

- B. **BUSINESS SERVICES:** Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing; building maintenance; employment services; management and consulting services; protective services; equipment rental and leasing; commercial research; development and testing; photo finishing; and personal (business) supply services.
- C. **HEALTH SERVICES:** Health care facilities as well as establishments providing support to the medical profession and patients, such as medical and dental laboratories, blood banks, oxygen, and miscellaneous types of medical supplies and services.
- D. **PERSONAL SERVICES:** Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel, (including, but not limited to beauty and barbershops, dry cleaning and pressing, shoe repair, health clubs, clothing rental and domestic services.)
- E. **PROFESSIONAL SERVICES:** Offices of members of recognized professions maintained for the conduct of that profession.
- F. **RETAIL SERVICES:** Establishments providing services or entertainment as opposed to products, to the general public for personal or household use, including eating and drinking places, hotels and motels, finance, real estate and insurance, personal service, motion pictures, amusement and recreation services, health, educational and social services, museums and galleries.
- G. **SOCIAL SERVICES:** Establishments providing assistance and aid to those persons requiring counseling for psychological problems, employment, learning disabilities and physical disabilities, and residential care such as child day care and nurseries.
- H. **TRANSPORTATION SERVICES:** Establishments furnishing services incidental to transportation, such as forwarding and packing services and the arranging of passenger or freight transportation.

**SERVICE OVERLAY ZONING DISTRICT** – An area with adequate infrastructure and access which can support service uses in close proximity to established residential neighborhoods.

**SERVICE STATION, AUTOMOBILE** – An occupancy which provides for:

- A. The servicing of motor vehicles and operation incidental thereto limited to the retail sale of petroleum products and automotive accessories, automobile washing by hand, waxing and polishing of automobiles, tire changing and repairing

(excluding recapping), battery service, charging and replacement, excluding repair and rebuilding, radiator cleaning and flushing, excluding steam cleaning and repair, installation of accessories and state inspection.

- B. The following operations if conducted within a building: lubrication of motor vehicles, brake servicing limited to servicing and replacement of brake cylinders, lines and brake shoes, wheel balancing, the test, adjustment and replacement or servicing of carburetors, coils, condensers, distributor caps, fan belts, filters, generators, points, rotors, spark plugs, voltage regulators, water and fuel pumps, water hoses and wiring.

**SIGN** – Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, provided, however, that the following shall not be included in the application of the regulations herein:

- A. Signs not exceeding two (2) square feet in area and bearing only property numbers, post box numbers, names of occupants of premises or other identification of premises not having commercial connotations.
- B. Flags and insignias of any government except when displayed in connection with commercial promotion.
- C. Legal notices, identification, information or directional signs erected or required by governmental bodies.
- D. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
- E. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
- F. Banners, streamers or emblems over or across any street, alley, or part thereof.

**SPECIAL EXCEPTION** - A use permitted in a particular zoning district pursuant to the provisions of Articles VI and IX of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

**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. Streets in the Borough function as follows:

- A. Arterial – Streets with signals at important intersections and stop signs on side streets that collect and distribute traffic from collector streets.

- B. Collector – Streets that collect traffic from local streets and connect with arterial streets.
- C. Local – Streets designed to provide vehicular access to abutting property, and to discourage through traffic.

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

**STRUCTURE, TEMPORARY** – A building so designed, used or constructed as to be used or utilized for a period of six (6) months or less. Use of a “temporary structure” shall be authorized by the issuance of a special exception by the Zoning Hearing Board.

**SUBDIVISION** – The division or redivision of a lot, tract or parcel of land by any means into two (2) 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 (10) acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

**SUPERMARKET** – A retail store that principally sells groceries and household products and generally exceeds ten thousand (10,000) square feet in gross leasable floor area.

**TWO-FAMILY DWELLING or DUPLEX** – A building designed exclusively for occupancy by two (2) families living independently of each other and containing two (2) dwelling units.

**UTILITY SUPPORT STRUCTURE** – Facilities necessary to the operation of public and private utilities, including but not limited to, lines, transformers, pedestals, switch boxes, cable and towers.

**VARIANCE** – Relief granted pursuant to the provisions of Articles VI and IX of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

**WAREHOUSING AND DISTRIBUTION CENTER** – An establishment engaged in the receipt, storage, and distribution of wholesale goods, products, cargo and material.

**YARD** - An open space other than a court on a lot, unoccupied and unobstructed from the ground upward unless specifically otherwise permitted in this Chapter.

**YARD, FRONT** - A yard extending between side lot lines across the front of a lot and which is unoccupied other than by steps, walks, terraces, driveways, lampposts and similar structures or improvements.

**YARD, REAR** - A yard extending across the rear of the lot between inner side yard lines.

**YARD, SIDE** - A yard extending from the rear line of the required front yard to the rear lot line.

**ZONING DISTRICT** – A section of the Borough for which uniform regulations governing the use, height, area and density and intensity of use of buildings and land and open space about buildings are herein established.

**ZONING AND CODES OFFICER** – That official appointed by the Borough who shall have the duty and power to administer and enforce this Chapter, and other Borough regulations as directed by Borough Council.

### **ARTICLE III**

## **Zoning Districts and Uses**

#### **§195-11 Purpose**

The purpose of this Article is to establish districts wherein compatible uses of land may be located and grouped to create, protect or maintain a living environment for the citizens of Evans City. Three (3) broad categories of uses are established: residential, commercial and industrial. It is the intent of this Article to stabilize and protect the uses contained within these districts by excluding mutually interfering uses and to allow a maximum degree of latitude within the regulations to promote residential harmony, to conduct profitable business or to contribute to the economy of the Borough. It is also the purpose of this classification to make it possible to more efficiently and economically design and install all physical public service facilities in terms of size and capacity to adequately and permanently meet needs resulting from a defined intensity of land use and to provide for the health, safety, morals, prosperity and well-being of the community at large.

#### **§195-12 Establishment of Districts**

The Borough is hereby divided into the following zoning districts with the designations and general purposes listed herein and the specifically permitted uses set forth in §§ 195-16 through 195-21.

**EVANS CITY BOROUGH  
ZONING ORDINANCE NO. 195  
OCTOBER 2006**

<u>District</u>	<u>Purpose</u>
Low Density Residential District – R-1	This district is established as a single-family residence district with adequate plot areas required and including the customary accessory and support uses.
Moderate Density Residential District – R-2	This district is established as primarily a single family residence district with adequate plot areas required and including some multi-family residences and the customary accessory and support uses.
Town Center District - TC	This district is established to maintain a viable retail and commercial presence with support uses, in areas of the Borough with access to regional as well as local volume roadways.
Industrial District – I	This District is established for research and development activities, the manufacturing, compounding, processing, packaging, storage, assembly, and/or treatment of finished or semi-finished products from previously prepared materials, which activities are conducted wholly within an enclosed building.
Business Transition Overlay District - BTO	The BTO District is established to create additional business and commercial opportunities while preserving neighborhood residential characteristics and promoting community development objectives in areas with direct access to an arterial roadway.
Service Overlay District – SO	The SO District is established to provide a variety of service uses which will support and supplement adjacent residential neighborhoods while preserving neighborhood residential characteristics and promoting community development objectives.

### §195-13 Interpretation of District Boundaries

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

- A. Boundaries indicated as appearing to follow the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
- B. Boundaries indicated as appearing to follow platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as appearing to follow Borough limits shall be construed as following Borough limits.
- D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- E. Boundaries indicated as approximately following the centerlines of streams, rivers or other bodies of water shall be construed to follow such centerlines, and in the event of change in the location of streams, rivers and other bodies of water, boundaries shall be construed as approximately following the centerlines.
- F. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

### §195-14 Application of District Regulations

The standards set by this Chapter within each district, including the base district regulations in an overlay zone, shall be minimum or maximum regulations and shall apply uniformly to each class of use or kind of structure or type of land, and to specific examples of each, except as hereinafter provided:

- A. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.
- B. No building or other structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area or to have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required, or in any other manner contrary to the provisions of this Chapter.
- C. No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying

with this Chapter shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

- D. No yard or lot existing at the time of passage of this Chapter (Ordinance No. 323, passed June 1, 1970), shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Chapter shall meet at least the minimum requirements established by this Chapter.

### **§195-15 Permitted Uses**

Within the various use districts as indicated on the Official Zoning Map of the Borough and subject to the requirements of § 195-14, no land, building or structure shall be used and no building or structure shall be erected which is intended or designed to be used, in whole or in part, except for any of the uses listed herein.

### **§195-16 R-1 LOW DENSITY RESIDENTIAL DISTRICT**

- A. Purpose: This district is established as a single-family residence district with adequate plot areas required and including the customary accessory and support.
- B. Permitted Principal Uses: Permitted Principal uses in the R-1 Residential District shall be as follows:
- (1) Single-family detached dwellings.
  - (2) Churches and other places of worship, including parish houses and Sunday school buildings.
  - (3) Grounds for games or sports, parks, country clubs, recreational and community center buildings, gymnasiums and other similar activities not operated for profit.
  - (4) Schools, public and private.
  - (5) Forestry.
- C. Permitted Accessory Uses: Permitted accessory uses in the R-1 Residential District shall be as follows:
- (1) Private garages and parking areas.
  - (2) Swimming pools (private) appurtenant to the main dwelling when meeting the yard requirements of depth and width for principal structures, provided that the pool is adequately fenced to prevent free access of small children and meets all applicable health and sanitary requirements.
  - (3) Home based business (See § 195-31).

- (4) Home gardening.
  - (5) Signs: A small professional or announcement sign, nonilluminated, not over three (3) square feet in area, mounted flat to the main wall of the building, and a nonilluminated real estate sign not over six (6) square feet in area mounted or displayed behind the building setback line.
  - (6) Private kennel for domestic pets.
  - (7) Greenhouses (private noncommercial).
  - (8) Satellite dishes and amateur radio antennae.
- D. Special Exceptions: Special exceptions in the R-1 Residential District shall be as follows:
- (1) Institutional and civic uses (See § 195-27 I).
  - (2) Cemeteries, mausoleums, columbariums and crematories (See § 195-27 D).
  - (3) Day care centers (See § 195-27 L).
  - (4) Temporary uses and structures (See § 195-27 Q ).

**§195-17 R-2 MODERATE DENSITY RESIDENTIAL DISTRICT**

- A. Purpose: This district is established primarily as a single family residence district with adequate plot areas required and including some multi-family residences and the customary accessory and secondary uses.
- B. Permitted Principal Uses: Permitted principal uses in the R-2 Moderate Density Residential District shall be as follows:
- (1) Single-family detached dwellings.
  - (2) Multifamily dwellings, including apartment houses.
  - (3) Institutional/civic use.
  - (4) Community residential facility.
  - (5) Grounds for games or sports, parks, country clubs and recreational and community center buildings, gymnasiums and other similar activities not operated for profit.
  - (6) Personal care home.
- C. Permitted Accessory Uses: Permitted accessory uses in the R-2 Moderate Density Residential District shall be as follows:
- (1) Private garages and parking areas.

- (2) Swimming pools (private) appurtenant to the main dwelling when meeting the yard requirements of depth and width for principal structures, provided that the pool is adequately fenced to prevent free access of small children and meets all applicable health and sanitary requirements.
- (3) Home based business (See §195-31).
- (4) Home gardening.
- (5) Signs: A professional or announcement sign, nonilluminated, not to exceed three (3) square feet in area, mounted flat to the main wall of the building, or a nonilluminated real estate sign not over six (6) square feet in area mounted or displayed behind the building setback line.
- (6) Private kennel for domestic pets.

**D. Conditional Uses:**

- (1) Mobile home parks, provided that the following apply:
  - (a) The minimum site area for a mobile home park shall be not less than five (5) acres.
  - (b) There shall be at least three thousand six hundred (3,600) square feet of site area per mobile home space.
  - (c) Sanitary sewer and water systems which provide individual service to each unit shall be provided, operated and maintained by the landowner or operator. The sewer and water systems shall be designed and constructed to local and Commonwealth standards.
  - (d) All applicable provisions of the Borough's Subdivision and Land Development Ordinance.
- (2) Cellular communications facilities. In addition to minimum yard requirements in the zoning district, telecommunications towers shall be set back from lot lines a minimum of twenty percent (20%) of the height of the telecommunications tower or the distance between the telecommunications tower base and the guy wire anchors or the minimum yard or perimeter setback requirements, whichever is greater.

- (a) Maximum height: two hundred feet (200’).
- (b) The telecommunications tower shall be designed to have the least practical adverse visual effect on the residential areas which can view it, as evidenced by compliance with the following:
  - [1] The telecommunications tower shall have a galvanized finish or be painted silver above the top of surrounding trees and be painted green below treetop level.
  - [2] The telecommunications tower shall comply with Federal Aviation Administration and Pennsylvania Bureau of Aviation painting and lighting standards.
  - [3] The telecommunications tower shall not be artificially lighted unless required by the Federal Aviation Administration or Pennsylvania Bureau of Aviation.
- (c) Existing on-site vegetation shall be preserved to the maximum extent possible.
- (d) Where a site abuts a residential zoning district, public property or street, a buffer area shall be provided at the site perimeter. The buffer area shall include a row of evergreen trees a minimum of six feet (6’) in height.
- (e) The proposed use shall comply with applicable Federal and State regulations. The applicant shall request a written statement of compliance from the Federal Aviation Administration, Federal Communications Commission, and other regulatory agencies, such statements to be sent by the agency to Borough Council. The applicant shall provide to the Borough a copy of the appropriate form submitted to each such agency, copy of a written request to each agency for a written statement of compliance, and a return receipt to each agency for a written statement of compliance, and a return receipt from each agency for delivery at least thirty (30) days prior to the public hearing of such application and of such request for a written statement of compliance.
- (f) The telecommunication tower shall be securely anchored in a fixed location of the ground and the applicant shall provide qualified evidence that the proposed structure will withstand wind and other natural forces.

- (g) Any telecommunication tower which ceases operation for a period of one hundred and eighty (180) days shall be dismantled and removed from the site at the operator's expense.
  - (h) Co-location of a proposed antenna on an existing structure or telecommunications tower is required where the owner is amenable to such arrangement.
- E. Special Exceptions: Special exceptions in the R-2 Moderate Density Residential District shall be as follows:
- (1) Institutional and civic uses (See § 195-27 I).
  - (2) Cemeteries, mausoleums, columbariums and crematories (See § 195-27 D).
  - (3) Funeral Homes, undertaking establishments, mortuaries (See § 195-27 G).
  - (4) Outdoor recreation, including, but not limited to, golf courses and golf driving ranges and swimming pools (See § 195-27 H).
  - (5) Temporary uses and structures (See § 195-27 Q).
  - (6) Long term nursing facility (See § 195-27 J)

#### **§195-18 TC TOWN CENTER DISTRICT**

- A. Purpose: This district is established to maintain a viable retail and commercial presence with support uses, in areas of the Borough with access to regional as well as local volume roadways.
- B. Permitted Principal Uses:
- 1. General retail, up to 5,000 square feet.
  - 2. Specialty retail, up to 5,000 square feet.
  - 3. Mixed use structures, commercial (first floor) and residential or office (on floors above).
  - 4. Eating and drinking establishments, excluding drive-in curb service
  - 5. Hotels and motels
  - 6. Medical and dental offices and clinics
  - 7. Supermarkets, grocery stores
  - 8. Personal and professional services
  - 9. Banks and financial institutions (without drive through windows)

10. General offices
11. Institutional and civic uses (as defined)
12. Commercial recreation facilities, conducted entirely within a building
13. Multi-family residential

C. Permitted Accessory Uses:

1. Public parking garages and parking areas in accordance with Article VI.
2. Signs as regulated under Article VII.
3. Accessory uses and structures clearly incidental to a permitted use and which will not create a nuisance or hazard.

D. Special Exceptions in the Town Center District shall be as follows:

1. Drive-in and drive-through facilities including, but not limited to, restaurants and banks (See § 195-27 E)
2. Automotive service stations, as defined, with or without convenience retail (See § 195-27 B).
3. Wholesale businesses, conducted entirely within the building (See § 195-27 S).
4. General and specialty retail over 5,001 square feet (See § 195-27 T).
5. Temporary uses and structures (See § 195-27Q)

**§195-19 I INDUSTRIAL DISTRICT**

**A. Purpose:** This District is established for research and development activities, the manufacturing, compounding, processing, packaging, storage, assembly, and/or treatment of finished or semi-finished products from previously prepared materials, which activities are conducted wholly within an enclosed building.

B. Permitted Principal Uses:

1. Light industry.
2. Research and development facilities.
3. Shops for custom work including, but not limited to printing and publishing.
4. Hotels and motels.
5. Institutional and civic uses.

6. Eating and drinking establishments.
7. Funeral homes, mortuaries.
8. Auction houses, except livestock.
9. Grounds for games or sports.
10. Medical and dental offices and clinics.
11. Theaters.
12. Parks and recreation areas.
13. Nursery, landscaping materials.

C. Permitted Accessory Uses:

1. Public parking garages and parking areas in accordance with Article VI.
2. Signs as regulated under Article VII.
3. Accessory uses and structures clearly incidental to a permitted use and which will not create a nuisance or hazard.

D. Special exceptions in the Industrial District shall be as follows:

1. Light manufacturing (See § 195-27 P).
2. Extractive industries (See § 195-27 F).
3. Veterinary clinics with kennels (See § 195-27 R).
4. Contractor supply yards (See § 195-27 U).
5. Self-storage facilities (See § 195-27 N).
6. Temporary uses and structures (See § 195-27Q).

**§195-20 BTO BUSINESS TRANSITION OVERLAY DISTRICT**

- A. Purpose: The BTO District is established to provide a variety of neighborhood scaled nonresidential use options in areas with direct access to an arterial roadway.
- B. Location: As identified on the official Borough Zoning Map.
- C. Permitted Principal Uses: Permitted principal uses in the BTO District shall be as follows:
  - (1) Mixed-use structures with retail on the first floor and office or residential above.

- (2) Specialty retail.
- (3) Restaurants with or without drive-through.
- (4) General and professional offices.
- (5) Banks and financial institutions.
- (6) Medical and dental clinics.
- (7) Automotive service stations with or without convenience commercial use.
- (8) Multifamily dwellings.
- (9) Parks and recreation areas.

D. Permitted Accessory Uses: Permitted accessory uses in the BTO District shall be as follows:

- (1) Public parking garages and parking areas in accordance with Article VI.
- (2) Signs as regulated under Article VII.
- (3) Satellite dishes.
- (4) Accessory uses clearly incidental to a permitted use and which will not create a nuisance or hazard.

**§195-21 SO SERVICE OVERLAY DISTRICT**

- A. Purpose: The SO District is established to provide a variety of service uses which will support and supplement surrounding residentially developed areas.
- B. Location: As identified on the official Borough Zoning Map.
- C. Permitted Principal Uses: Principal uses in the SO District shall be as follows:
  - (1) Mixed use structures with retail or service uses on the first floor and service or residential uses above.
  - (2) Service uses as follows:

- (a) Amusement and recreation services.
  - (b) Business services.
  - (c) Health services.
  - (d) Personal services.
  - (e) Professional services.
  - (f) Retail services.
  - (g) Social services.
  - (h) Transportation services.
- (3) Conversion apartments.
  - (4) Multi-family dwellings.
  - (5) Commercial recreation facilities, conducted entirely within a building.
  - (6) Personal care home.
  - (7) Community residential facility.

D. Permitted Accessory Uses: Permitted accessory uses in the SO District shall be as follows:

- (1) Public parking garages and parking areas in accordance with Article VI.
- (2) Signs as regulated under Article VII.
- (3) Accessory uses clearly incidental to a permitted use and which will not create a nuisance or hazard.

#### **§195-22 Zoning of Annexed Territory**

All territory which may hereafter be annexed to the Borough shall, in the interest of protecting property and public interest, be zoned R-1 Residential, until the Planning Commission makes a thorough study of the newly annexed area and reports its recommendations to the Council, and the Council adopts a final district classification. This study and report by the Planning Commission shall be made within three (3) months of the time of annexation.

## ARTICLE IV

### Conditional Uses and Uses by Special Exception

#### §195-23 General Standards and Criteria for Conditional Uses

- A. Conditional uses are listed for specific zoning districts in Article III of this Chapter. Only those uses expressly listed as conditional uses in a particular district may be considered in that zoning district. Further, not all zoning districts include conditional uses. All applications for a conditional use shall demonstrate compliance with the general criteria and standards, as well as any criteria and standards specific to the requested use, as set forth in this Article.
- B. In addition to any express standards and criteria listed in the individual zoning districts sections, an application for a conditional use shall demonstrate that:
- (1) The applicant will reduce significant adverse impacts on existing uses to the maximum extent feasible, including, but not limited to, adopting measures addressing illumination/glare, noise, hours of operation, loitering, litter control, and other similar characteristics.
  - (2) The use can be accommodated on the site consistent with all dimensional, site development, design, grading/drainage, performance, and other standards for the District in which it will be located, with no variances required.
  - (3) The use provides adequate off-street parking on the same property as the use, in compliance with standards set forth in Article VI of this Chapter.
  - (4) At a minimum, areas of the property not covered by buildings or paved are landscaped and maintained pursuant to the standards and requirements set forth in § 195-28 P of this Chapter.
  - (5) Primary access points to the property shall be located as far as possible from road or street intersections and adequate sight distances for the posted speed limits shall be met.

#### §195-24 Procedure for Review of Conditional Uses

- A. An applicant requesting a conditional use shall submit three (3) copies of the following materials, together with a completed application and appropriate fee, to the Borough Secretary for referral to the Borough Zoning and Codes Officer. All information submitted shall be reviewed by the Zoning and Codes Officer for completeness.

- (1) A written statement supporting the general criteria outlined in this Article and describing in detail the proposed use;
  - (2) An accurately scaled illustrative site plan showing the arrangement of the proposed use on the site, including property lines, uses on adjacent properties, abutting streets, buildings existing and proposed on the site by use and height, points of access into the site, internal driveways, parking area layout with number of spaces noted, signs to remain or proposed, areas of earthmoving with proposed grade of finished slopes noted, method of collecting and disposing of stormwater, proposed landscaping and other pertinent information to illustrate the proposal.
- B. The Planning Commission shall review such requests and forward its recommendation on the application to Borough Council. Within the prescribed time frame, including any agreed-upon extension, the Commission may also hold a public hearing pursuant to public notice to inform the public and obtain comment prior to taking action on a proposed conditional use.
- C. Within the time period set forth in this Section, the Planning Commission shall take one of the following actions. Failure to take action within the prescribed period, including any extension, shall be deemed a recommendation for approval of the application as presented:
- (1) Recommend to Borough Council approval of the application as submitted;
  - (2) Recommend to Borough Council approval of the application with certain conditions subject to the applicant's consent;
  - (3) Recommend to Borough Council denial of the application on the basis of specific findings communicated to the applicant in writing.
- D. Borough Council shall hold a public hearing, pursuant to public notice, and take final action on a completed request, as determined by the Zoning and Codes Officer for conditional use within sixty (60) days from the date of receipt of the completed request, unless the applicant agrees in writing to a time extension. Borough Council may ask for additional information or continue the hearing, but shall conclude the hearing and render a written decision on the application request within forty-five days of conclusion.
- E. Within the time period set forth herein, Borough Council shall take one of the following actions. Failure to take action within the prescribed period, including any extension, shall be deemed approval of the application as presented:
- (1) Approve the application;

- (2) Approve the application with conditions subject to the applicant's consent; or
  - (3) Deny the application on the basis of specific findings communicated to the applicant in writing.
  - (4) Borough Council may attach such reasonable conditions and safeguards, in addition to those expressed in this Chapter, as it may deem necessary to implement the purposes of this Chapter. The applicant shall have thirty (30) days in which to notify Borough Council that he accepts any attached conditions or stipulations. Failure to accept will render the approval null and void.
- F. An applicant whose conditional use application is approved must obtain a zoning/building permit. As set forth in this Section, an applicant proposing development containing a use that is permitted only as a conditional use may submit an application for a zoning permit at the same time he or she submits the application for conditional use approval. Duplicate submittal materials are not required, and the review and approval process for both the conditional use and zoning/building permit may proceed independently.
- G. All development, construction, and use shall be in accordance with the approved conditional use plan, unless a revised plan is submitted and approved. The approved plan shall consist of the application for conditional use, together with all its attachments and exhibits, as finally approved by Borough Council, and all conditions and stipulations attached by Borough Council. Any development contrary to the approved plan shall constitute a violation of this Chapter.
- H. Failure of the applicant to apply for a building permit within one (1) year of receiving approval of the conditional use shall render the decision by Borough Council null and void.

### **§195-25 General Standards and Criteria for Uses by Special Exception**

The following are hereby established as the standards and criteria governing the allowance of special exceptions herein authorized, following review by the Zoning Hearing Board and/or Borough Council.

- A. No use or structure shall be allowed which shall contravene or violate the spirit and intent of the purposes and Community Development Objectives of this Chapter.
- B. The use or structure shall not involve any element or cause any conditions that may be dangerous, injurious or noxious to any other property or persons and shall comply with the performance standards hereinafter set forth.

- C. The use or structure shall be sited, oriented and landscaped to produce an aesthetically compatible or architecturally harmonious relationship of buildings and grounds to adjacent buildings and properties.
- D. The use or structure shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.
- E. The use or structure shall have no substantial adverse impact on neighboring uses nor cause a reduction of the property values thereof.
- F. The use or structure shall be substantially conforming to the surrounding uses of property.
- G. The use or structure shall satisfy every reasonable consideration made for the safety and convenience of the traveling public, including without limitation, safe ingress and egress, and the avoidance of hazard and congestion to travel and transportation. To effectuate this standard, Borough Council, in granting allowance of any use or structure hereunder, may impose upon the applicant and/or developer the cost and expense of off-site improvements including without limitation, traffic signals, street lighting, road widening and other street and highway improvements.
- H. The use or structure shall satisfy every reasonable consideration made for the health and safety of the general public, including without limitation safe water supply and sanitary sewage collection facilities.
- I. The use or structure shall avoid and/or satisfy such resulting impact upon neighboring uses as may affect the health and safety of persons and the value and use of property therein. To effectuate this standard, Borough Council, in granting allowance of any use or structure hereunder, may impose upon the applicant and/or developer the cost and expense of providing offsite improvements including without limitations, encased storm water facilities and appurtenances, street lighting, sanitary sewage collection facilities and treatment and community fire apparatus and equipment which may be required for any unusual use or activity.

**§195-26 Procedure for Review of Uses by Special Exception**

- A. A developer or owner/applicant proposing a special exception use shall submit an application of appeal to the Zoning Hearing Board accompanied by the following materials to the Borough Secretary or Borough Zoning and Codes Officer:
  - (1) A written statement supporting the general criteria outlined in this Section and describing in detail the proposed use;

- (2) An accurate scaled illustrative site plan showing the arrangement of the proposed use on the site, including property lines, uses and structures on adjacent properties, abutting streets, buildings existing and proposed on the site by use and height, points of access into the site, internal driveways, parking area layout with number of spaces noted, freestanding signs to remain or are proposed, areas of earth moving with proposed grade of finished slopes identified, method of collecting and disposing of stormwater, proposed landscaping and other pertinent information to illustrate the proposal.
  - (3) The approval of a Special Exception Application shall be valid for a period of twelve (12) months from the date of approval. If within this period, the building permit has not been applied for and/or construction/development begun, then the Special Exception Approval shall be revoked and the applicant must reapply for approval. One (1) extension of up to six (6) months may be granted by the approving body where the applicant can show good cause for the delay.
- B. The Zoning Hearing Board shall call and hold a public hearing pursuant to public notice on the proposal within sixty (60) days of receipt of the required materials and a complete application, in the same manner as for any action requested of it.
  - C. The Board shall, within forty-five (45) days of the conclusion of the public hearing, render a decision on the proposal to either:
    - (1) Approve the use as submitted;
    - (2) Approve the use with conditions determined by the Board;
    - (3) Deny the proposal.
  - D. The applicant shall have thirty (30) days in which to notify the Board that he accepts any attached conditions. Failure to accept will render the approval null and void.
  - E. The Board shall authorize the Zoning and Codes Officer to issue a zoning/building permit for any approved special exception use.
  - F. Failure of the applicant to apply for a zoning/building permit within one (1) year of receiving approval shall render the decision by the Board null and void.

**§195-27 Specific Criteria for Special Exceptions**

- A. Reserved for future use.
- B. Automobile services stations (as defined). Use by special exception in the TC Town Center District.

- (1) No outdoor storage of materials and supplies shall occur.
- (2) All gasoline pumps and service islands shall be set back a minimum of twenty-five feet (25') from any street right-of-way and a minimum of fifty feet (50') from any property line which abuts a residential lot.
- (3) Fuel tanks shall be placed underground and shall use materials and be designed in accordance with State and Federal regulations.

C. Reserved for future use.

D. Cemeteries, mausoleums, columbariums and crematories. Use by special exception in the R-1 and R-2 Districts.

- (1) The minimum site required shall be twenty (20) acres.
- (2) No crematoriums shall be located within two hundred feet (200') of any property line or street or road right-of-way.
- (3) A drainage plan shall be submitted with the application to show existing and proposed runoff characteristics.
- (4) Parking for principal structures such as chapels or mausoleums shall be provided at the ratio of one (1) space for each three (3) seats or twenty (20) spaces for each room without seats.
- (5) Interior streets shall be designed to accommodate parking along at least one (1) side of the street without interrupting the free flow of traffic.

E. Drive-in restaurants and drive-in theaters. Use by special exception in the TC Town Center District.

- (1) The site shall have frontage on and direct vehicular access to an arterial or collector street, as defined by this Chapter.
- (2) In addition to the parking spaces required for the principal use, a minimum of five (5) standing spaces, in tandem, with a total length of one hundred feet (100'), in a direct line with each window or stall shall be provided for vehicles to wait in line. The standing spaces shall not interfere with the use of any required parking spaces and shall not inhibit the free flow of traffic on the site. The standing spaces shall be designed so that waiting vehicles shall not stand in any right of way or overflow onto adjacent properties, streets or berms.
- (3) Entrances, exits and standing spaces shall be adequately indicated with pavement markings and/or directional signs.

- (4) Parking areas and circulation patterns shall be adequately striped and marked to facilitate traffic circulation on the site.
- F. Extractive industries not including simple foundations. Use by special exception in the I Industrial District.
- (1) Resource removal may include the excavation of earth, sand, gravel, stone, coal or other minerals by surface or deep mining methods and removal of the excavated materials from the site when such activity is not a part of an approved site development plan.
  - (2) An application for conditional use must be approved prior to issuance of an excavation permit. As part of the application for conditional use approval, the excavator shall submit a drawing showing:
    - (a) The property on which the excavation will occur, including abutting roads, property lines and boundary on the property within which the excavating will occur, including proposed phasing of the work over the life of the project;
    - (b) Contours at five (5) foot intervals, indicating existing contours and proposed contours at conclusion of excavation;
    - (c) Solution to drainage from the site, showing means of carrying ground water to a natural drainageway or to a storm water system; and
    - (d) The registration seal of the engineer preparing the drawing when over five (5) acres in area.
  - (3) The excavator shall comply with all applicable regulations of this Chapter, including but not limited to site grading and drainage, landscaping and buffering, and environmental standards.
  - (4) No landfill or dumps for garbage or other refuse or commercial or industrial by-products shall be permitted.
  - (5) The excavation project shall be operated as follows:

- (a) Primary access to the site shall be controlled at one location.
  - (b) The excavator shall post the property, noting that a dangerous condition exists and warning trespassers away.
  - (c) The excavator shall take care that trucks leaving the property are not overloaded and that spilled material is removed from adjacent public roads not less frequently than once every four (4) hours while the excavation is in progress.
  - (d) Water accumulating on the site shall be removed to a drainageway and any contaminated water shall be treated before being allowed to enter a drainageway.
  - (e) When the operation ceases for a period of at least ninety (90) days or moves from one area of the site to another, slope areas remaining shall be left in compliance with the requirements for grading and excavation in the Borough's referenced Subdivision and Land Development Ordinance (Butler County's Subdivision and Land Development Ordinance).
- (6) Upon approval of the extractive industry as a conditional use, the Borough Council shall instruct the Zoning and Codes Officer to issue an excavating or grading permit. The excavator does not have to apply for a zoning permit pursuant to this Chapter. However, the necessary permits of the Pennsylvania Department of Environmental Protection shall have been issued to the excavator prior to issuance of an excavating permit by the Zoning and Codes Officer.
- (7) The excavator shall apply annually, upon the date of issuance of the original excavating permit, for a renewal of the local grading permit. A total of four (4) renewals shall be permitted for any single project and all excavating work shall be completed within five (5) years from the date of issuance of the original excavating permit.
- (8) Borough Council shall have the right to close the excavating or grading operation at any time, or deny the right to renewal of the excavating or grading permit, if in its opinion the operation is being carried on in conflict with local regulations.
- (9) The Borough Council may require a bond in favor of the Borough to be posted by the excavator to cover damages that may occur to Borough roads as a result of hauling materials excavated from the permitted site. The amount of the bond less any sums needed to correct damages shall be

refunded to the excavator within one (1) year after the conclusion of the operation.

G. Funeral homes, undertaking establishments, mortuaries. Use by special exception in the R-2 District.

- (1) The site shall have direct vehicular access to an arterial or collector street as defined.
- (2) The minimum site area shall be twenty-one thousand seven hundred and eighty (21,780) square feet.
- (3) Off-street parking and loading shall be provided in accordance with Article VI.
- (4) All outdoor lighting shall be shielded and reflected away from adjacent properties.
- (5) Parking areas adjoining property lines of adjoining properties containing residential use or zoning classification shall be screened by a six foot (6') compact hedge, or privacy fences.

H. Golf courses, golf driving ranges and putting courses. Use by special exception in the R-2 District.

- (1) Lot Area:
  - (a) Nine hole: 60 acres
  - (b) Par 3 18 hole: 45 acres
- (2) No building shall be closer than one hundred (100) feet to any lot line.
- (3) A buffer shall be provided, in accordance with the provisions of § 195-28 P of this Chapter along the entire perimeter of the site.
- (4) Parking: One (1) off-street parking space per four (4) people of total capacity, including accessory uses, plus one (1) additional space for each employee.

I. Institutional and Civic Uses. Use by special exception in the R-1 and R-2 Districts.

- (1) Hospitals shall be licensed by the Commonwealth and have the required approvals of all regulatory agencies or accreditation organizations.
- (2) The minimum lot area shall be one (1) acre.
- (3) The property shall have its principal traffic access to an arterial or collector street with sufficient capacity to handle the traffic to be

generated. The Borough may require a traffic analysis, prepared by a qualified traffic engineer, showing the peak hour traffic generation derived from the proposed development and its relation to surrounding roads and intersections, including methods proposed for mitigating capacity deficiencies.

- (4) Where the use adjoins existing residential uses, a minimum twenty-five foot (25') bufferyard shall be provided. Care shall be taken to locate emergency, loading and service entrances where they are not offensive to adjoining properties.
- (5) A landscaped area, at least five feet (5') in depth, shall be provided along the entire front property line, except for approved entrances. Such area shall not obstruct the view of vehicles on abutting streets and roads.
- (6) The site shall be designed to provide maximum accessibility for emergency and public safety services.

J. Long Term Nursing Facilities: Use by special exception in the R-2 District.

- (1) A nursing home shall be considered a building for the long term care of elderly, disabled, or terminally ill persons requiring constant attention by skilled staff. A convalescent home shall be considered a building housing persons recovering from serious illness or injury requiring temporary care.
- (2) Such homes may be converted existing dwellings or new buildings with a maximum of six (6) beds in the converted dwelling.
- (3) The total number of individuals that may be cared for or housed in a new home shall not exceed the total acreage of the site multiplied by six (6).
- (4) Long term nursing facilities shall have a bed capacity of at least eleven (11) beds, except as provided herein, but no more than sixty (60) beds. The operator of a nursing or convalescent home shall be licensed or certified by the appropriate State agency or agencies. The license or certification shall be obtained prior to issuance of an occupancy permit by the Borough. A copy of an annual report with evidence of continuing certification shall be submitted to the Zoning and Codes Officer in January of each year.
- (5) Additions to any existing dwelling shall be compatible with the original building's appearance and scale, and new development should be consistent with applicable residential lot and block standards.

- (6) Twenty-four hour supervision shall be provided at a long term nursing facility by staff qualified by the licensing or certification agency.
- (7) Adequate provisions shall be made for access by emergency medical and fire vehicles. If more than twenty-five (25) beds are provided, a traffic impact study shall be prepared.
- (8) The minimum area of the property shall be two (2) acres.
- (9) Principal building or buildings on the property shall be set back at least one hundred feet (100') from any right-of-way abutting the site and at least fifty feet (50') from side and rear property lines.
- (10) Outdoor lighting shall be of the cut-off luminaire type, permitting no light escape upwards, no view of the light source from off the property, and no light trespass on adjacent properties.

K. Reserved for future use.

L. Day Care Center (adult or children). Use by special exception in the R-1 District.

- (1) The facility shall be registered with or licensed by the Commonwealth, if applicable.
- (2) Outdoor recreation areas shall be provided which shall have a minimum area of sixty-five (65) square feet per adult or child and which shall be secured by a fence with self-latching gate.
- (3) Outdoor recreation areas which adjoin residential lots shall be screened.
- (4) The general safety of the property proposed for a day care center shall meet the needs of both adults and children.
- (5) Off-street parking shall be provided in accordance with the requirements of Article VI of this Chapter.

M. Reserved for future use

N. Self-Storage Facilities. Use by special exception in the I District.

- (1) No business activity other than rental of storage units shall be conducted on the premises and no outdoor storage shall be permitted.
- (2) The facility shall be enclosed with a security fence, access through which is controlled by the manager.
- (3) Groups of units shall be separated by at least twenty-four feet (24') when access doors to units are located on each side of an access drive, or by at least twenty feet (20') if access doors occur on one (1) side only.

- (4) No items shall be offered for sale on the premises, nor shall repair of autos, boats, motors or furniture be permitted, or the storage of flammable or explosive materials

O. Reserved for future use.

P. Light Manufacturing. Use by special exception in the I Industrial District.

- (1) All activities must be in compliance with applicable federal, state and local regulations.
- (2) An Erosion and Sedimentation Control Plan, approved by the County Soil Conservation District, shall be implemented to minimize the adverse impact of the activity. Additional measures determined as necessary by the County Planning Commission may be required.
- (3) All activities except outdoor material storage must be conducted within an enclosed structure.
- (4) All activities must be entirely fenced with opaque material at least ten (10) feet in height. A living fence may not be substituted.
- (5) No activity or part thereof will be located closer than three hundred (300) feet to the lot line of any school, hospital, nursing home, personal care or dwelling unit.
- (6) Setbacks on all sides must be at least three hundred (300) feet.

Q. Temporary uses and structures. Use by special exception in all districts.

- (1) A temporary use and structure, for the purposes of this Chapter, shall be determined to be man-made buildings or structures, either constructed on-site, or constructed elsewhere and erected or placed on site, for a use which is permitted in the zoning district, and is not a permanent use, such as kiosks, tents, sheds, or trailers that are temporarily used for construction purposes or seasonal sales, such as Christmas trees, or home-grown produce but excluding sales by itinerant merchants of items including flowers, sports memorabilia, furniture or artwork.
- (2) A temporary use and structure may be permitted for a period of one (1) day to forty-five (45) days. One (1) extension of time may be requested by the property owner in writing, and may be granted by the Zoning and Codes Officer.
- (3) A temporary use and structure shall not alter the movement of traffic or parking arrangement of cars in a designated parking lot, nor disrupt or impede vehicular or pedestrian traffic.

- (4) The use of any temporary use and structure shall be consistent with the characteristics of uses permitted in the District where such temporary use is proposed.
- (5) The owner of the property upon which a temporary use and structure is proposed to be located, shall provide written authorization for consideration by the Zoning Hearing Board and Zoning and Codes Officer.
- (6) A permitted temporary use and structure shall meet all required setbacks for primary or principal buildings.
- (7) A temporary use permit from the Zoning and Codes Officer shall be required prior to the construction, erection or placement of any temporary use and structure on any property.
- (8) Exceptions to the granting of special exception status to temporary uses and/or buildings and structures are as follows:
  - (a) Temporary uses including but not limited to festivals, carnivals, fairs or similar activities sponsored by a local non-profit, community or charitable organization, and government agencies, shall be exempt from securing special exception status from the Zoning Hearing Board, provided the Zoning and Codes Officer determines compliance with the provisions of this Chapter. A temporary use permit shall be required.
  - (b) Temporary uses, buildings and structures may be accommodated on residentially developed lots for recreational or personal noncommercial purposes, including but not limited to birthday parties, picnics, and family reunions, without formal approval or a temporary use permit, provided all applicable provisions of this Chapter are met.

R. Veterinary Clinics with Kennel. Use by special exception in the I Industrial District.

- (1) The minimum lot area required for an animal hospital shall be twenty thousand (20,000) square feet. The minimum lot area required for an animal hospital with an outdoor kennel or outdoor runs shall be two (2) acres.
- (2) All outdoor kennels or runs shall be constructed for easy cleaning and shall be adequately secured by a fence with self-latching gate.

- (3) Outdoor kennels shall be located at least two hundred feet (200') from any property line adjoining residential use or zoning classification and at least fifty feet (50') from any other property line.
  - (4) Kennels associated with animal hospitals shall be licensed by the Commonwealth and shall continue to maintain a valid license throughout their operation. Any suspension of the license shall be a violation of this Chapter and shall be subject to the enforcement provisions of § 195-62 of this Chapter.
- S. Wholesale businesses, conducted entirely within a building. Use by special exception in the TC Town Center District.
- (1) Wholesale distribution facilities shall not exceed forty percent (40%) of the total gross floor area of the building.
  - (2) Wholesale distribution shall be limited to those products which are sold at retail on the site.
  - (3) Off-street parking and loading shall be provided in accordance with Article VI of this Chapter.
  - (4) Primary access to wholesale distribution facility shall be from an arterial or collector street as defined by this Chapter.
- T. General and Specialty Retail Over 5,001 Square Feet: Use by special exception in the TC Town Center District.
- (1) The business shall be conducted from within a permanent enclosed building.
  - (2) The building required for the use shall be substantially the same in size and appearance as those of permitted businesses.
  - (3) No products or residue from the business shall be stored outside, except vehicles for sale on the premises or outdoor nursery plant materials. Outdoor sales areas shall not be permitted to reduce required off-street parking on the lot.
  - (4) If the premises are to be developed as a temporary use, the applicant shall provide a plan describing the projected time limitation for the development, the long term proposed use, if any, of the premises, and if no long term use, how he will return the premises to their pre-development condition.
- U. Contractor's Supply Yards: Use by special exception in the I Industrial District.

- (1) The minimum site required shall be two (2) acres.
- (2) Outdoor display and equipment storage areas shall be secured by a fence that is a minimum of eight feet (8') in height and shall be screened from any adjoining residential property by a six foot (6') compact hedge.
- (3) All outdoor display areas and equipment storage areas shall be located on a minimum of twenty-five feet (25') from any property line adjoining a residentially zoned lot.
- (4) Contractors' supply yards may also include an office for the conduct of the business. Builders' or other supply yards involving retail or wholesale sales shall include a completely enclosed building for the conduct of the business.
- (5) Adequate paved access and maneuvering facilities for loading and unloading trucks shall be provided so that trucks shall not back onto or stand on the public right of way and dirt, debris or excess materials shall not be deposited on any public right-of-way.
- (6) Any facilities located on a lot where any lot line is located within two hundred feet (200') of any existing dwelling shall cease operations between dusk and dawn, prevailing time.

## **ARTICLE V**

### **Supplemental Regulations**

#### **§195-28 Performance Standards**

- A. Compliance: No use, land or structure in any district shall involve any element or cause any condition that may be dangerous, injurious or noxious, or cause offensive odor, smoke, dust, dirt, noise, vibration, glare, excessive traffic, attract vermin or rodents or constitute a nuisance or be a detriment to the health, safety, moral or general welfare of the community or to any other person or property in the Borough. All uses in all districts shall be subject to the following standards of operation.
- B. Environmental Performance Standards: The developer shall determine the presence of environmental or natural features on any site proposed for land development and shall meet the following standards for environmental protection. Site alterations, erosion and sedimentation control, regrading, filling, the clearing of vegetation or timbering and forestry activities without an

appropriate and current permit prior to approval of the plans for development, shall be a violation of this Article.

- (1) Floodway Delineation: One hundred (100) year floodways shall be delineated as per the provisions of the current Borough ordinance. Within the floodway, the following uses and activities having a low flood damage potential and not obstructing flood flows shall be permitted, provided that they are in compliance with the provisions of the underlying District and are not prohibited by any other Ordinance, and do not require structures, fill or storage of materials and equipment:
  - (a) Agricultural uses;
  - (b) Public and private recreational uses and activities such as parks, picnic grounds, hiking and horseback riding trails, wildlife and nature preserves, hunting and fishing;
  - (c) Accessory residential uses such as yard areas, gardens and play areas.
- (2) Floodplains: For the purpose of this Section, normally dry land area adjacent to stream channels that is susceptible to being inundated by overbank stream flows. Development activities shall be regulated as per the provisions of the current Borough ordinance.
- (3) Steep Slopes: In areas of steep slopes, i.e., those above fifteen percent (15%), the following standards shall apply, except as approved by the Borough Engineer:
  - (a) 16-24%: No more than sixty percent (60%) of such areas shall be developed and/or regraded or stripped of vegetation.
  - (b) 25% or more: Earth disturbance activities in these areas in preparation for development are restricted except as approved by the Borough Engineer.
- (4) Forest: No more than fifty percent (50%) of any forest as defined may be cleared, select cut, or developed, unless trees are the primary crop being harvested through a select cut method.
- (5) Ponds, Watercourses or Wetlands: No development, filling, piping or diverting shall be permitted except for required roads and utility line extensions, unless permitted by the appropriate state, county or regulatory agency.

- (6) Stormwater Drainage and Management: All plans shall comply with the provisions of the Evans City Borough Subdivision and Land Development, and all amendments thereto.
  - (7) Soil Erosion and Sedimentation: With any earth disturbance there shall be control of erosion and the protection of streams and ponds from sedimentation in accordance with the “Clean Streams Law P.L. 1987”, Chapter 102 of Title 25 of the Pennsylvania Code, and the “Soil Erosion and Sedimentation Control Manual” of the Pennsylvania Department of Environmental Protection. In addition, a Soil Erosion and Sediment Control Plan (ES & SC Plan) shall be required as part of the application for any Borough permit where earth disturbance or excavation will occur. As a minimum where sediment can be transported away from the disturbed area, a silt fence or straw bale barrier shall be erected and maintained in working order until vegetation is fully established as determined by the Pennsylvania Department of Environmental Protection, or erosion resistant ground cover has been installed. Additional sediment pollution control measures may be required where land development is more extensive than single family construction.
- C. Odor: Those standards for the control of odorous emissions established by the Pennsylvania Department of Environmental Protection (PADEP) shall be applied in all zoning districts. Where an odor is deemed offensive a duly authorized Borough representative shall refer the matter to the Pennsylvania Department of Environmental Protection (PADEP) where it has jurisdiction relative to an established airshed.
- D. Storage and Waste Disposal:
- (1) No highly flammable, explosive or toxic liquids, solids or gases shall be stored in bulk (over five hundred [500] gallons), above ground, except in an enclosed building and except new tanks or drums of fuel connected directly with energy devices or heating appliances located and operated on the same lot as the tanks or drums of fuel.
  - (2) All new permanent bulk outdoor storage facilities for fuel over five hundred (500) gallons, raw materials and products and all fuel, raw materials and products stored outdoors, shall be enclosed by an approved safety fence.
  - (3) No materials or wastes shall be deposited upon a lot in such form or manner that they may be transported off the lot by natural causes or forces; nor shall any substance which can contaminate wells, watercourses,

or potable water supplies otherwise render such wells, watercourses, or potable water supplies undesirable as sources of water supply or recreation; nor shall any substance which will destroy aquatic life be allowed to enter any wells, watercourses, or potable water supplies, where applicable. A Pennsylvania Department of Environmental Protection approved plan for spill containment shall be submitted to the Borough for review by the Borough Engineer prior to the issuance of any required permit.

- (4) Any 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 adequate to eliminate such hazards.
- E. Air Pollution: No emission at any point from any chimney or otherwise of visible smoke in excess of that permitted by the air pollution control regulations of the Commonwealth agency with jurisdiction, shall be permitted.
- F. Dust, Fumes, Vapors, and Gases: The emission of dust, dirt, fly ash, fumes, vapors or gases which can cause any damage to human health, to animals, to vegetation, or to property or which can cause any soiling or staining of persons or property at any point beyond the lot line of the use creating the emission is herewith prohibited.
- G. Glare: No use shall produce a strong, dazzling light or a reflection of a strong, dazzling light or employ unshielded illumination sources beyond its lot lines or onto any public road. Spillover lighting from parking areas shall not exceed two (2) foot-candles per square foot beyond the property line.
- H. Vibrations: No use shall cause earth vibrations, or concussions detectable beyond its lot lines without the aid of instruments, with the exception of vibration produced as a result of temporary construction activity.
- I. Discharge: No discharge at any point into any private sewage disposal system or stream or into the ground, of any materials in such a way or in such manner or temperature as can contaminate any public or private water supply or otherwise cause the emission of dangerous, noxious or objectionable elements, or the accumulation of solid wastes conducive to the breeding of rodents or insects, is permitted.
- J. Heat, Cold, Dampness or Movement of Air: No activities producing heat, cold, dampness or movement of air are permitted which shall produce any material effect on the temperature, motion or humidity of the atmosphere at the lot line or beyond.

- K. Noise: No new use proposed in any district which by the nature of its use, operation or activity produces noise of objectionable character or volume as noted by a person at the property line of the parcel upon which the offending use is located, will be permitted:
- (1) Residential Uses:
    - (a) In excess of sixty (60) dba for any period of time between the hours of 10:00 p.m. and 7 a.m.
    - (b) In excess of eighty (80) dba for any period of time between the hours of 7:01 a.m. and 9:59 p.m.
    - (c) The use of maintenance equipment including, but not limited to, power mowers, on a temporary basis, in residentially zoned districts shall be exempt from the standards in this Section.
  - (2) Commercial Uses: In excess of ninety (90) dba for more than two (2) hours during a twenty-four (24) hour period.
- L. Electrical Disturbance or Radioactivity: No activities which emit dangerous radioactivity or continuous cumulative low level radiation, at any point are permitted and no electrical disturbance adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance shall be permitted.
- M. Maintenance of Yards, Adjacent Undeveloped Property: The owner or lessee of the property, whether occupied or vacant located within or adjacent to any developed area shall maintain such premises so that:
- (1) All portions of the property shall be kept free of junk, debris, disabled motor vehicles, and dangerous, or noxious material.
  - (2) All applicable provisions of current Borough ordinances regulating grass and weeds or related property maintenance shall be conformed to.
- N. Vehicle and Equipment Maintenance:
- (1) In commercially zoned areas, all vehicles and movable equipment repair done on the property shall be performed within an enclosed building, except that minor maintenance activities may be completed on the exterior of a lot where space has been provided for the temporary parking or storage of vehicles and movable equipment.
  - (2) In residentially zoned areas, minor vehicle maintenance activities on vehicles owned by the occupant may be conducted in driveways, but in no case shall repairs be made on vehicles and movable equipment which

would result in the storage of said vehicles or movable equipment on the exterior of the lot for more than forty-eight (48) hours, unless said vehicles are stored in an enclosed building.

- O. Water Supply: All new water wells which provide the primary source of potable water for the residence of the same lot shall produce at a minimum 3.5 gallons per minute, per well, continuously.
- (1) Documentation shall be submitted to the Borough which verifies the capacity of each new well providing the primary source of potable water.
  - (2) No subdivision or land development which relies on well water as the primary source of potable water shall be approved unless the minimum capacity identified herein is met.
- P. Landscaping and Bufferyards: Where screening or bufferyards are not specified or called for in this Chapter, they shall consist of a minimum fifteen foot (15') wide area with plantings of a mix of fifty percent (50%) evergreen and fifty percent (50%) deciduous trees, of a minimum two inch (2") caliper, planted in two (2) staggered rows on ten foot (10') centers. All other bufferyards, where specified, shall be prepared and planted as per the provisions of this Section.
- (1) Screening in parking areas shall consist of a minimum five foot (5') wide planting area with a minimum of one (1) shrub and one (1) deciduous or conifer tree for every four (4) parking spaces.
  - (2) All planting areas shall be maintained in annual plants or perennial grasses.

**§195-29 Forestry**

Forestry, as defined, shall be a permitted principal use in every base and overlay district.

**§195-30 Essential Services**

Essential services, as defined, shall be permitted uses in every base and overlay district, when such use complies with the following criteria.

- A. The minimum lot area required shall be twenty thousand (20,000) square feet.
- B. Maintenance vehicles shall be stored within a completely enclosed building.
- C. Outdoor storage of materials or equipment, other than maintenance vehicles, shall be permitted only if the storage area is completely enclosed by a minimum six foot (6') fence with self-latching gate and is screened by one hundred percent (100%) opaque screening material placed in the fencing or by a six foot (6') dense, compact evergreen hedge.

- D. Any area of the building which is used for business offices shall comply with the parking requirements of Article VI of this Chapter for that use. Any area of the building which is used for storage of material, vehicles or other equipment shall provide one (1) parking space for each one thousand five hundred (1,500) square feet of gross floor area devoted to that use.
- E. A planted bufferyard, a minimum of ten feet (10') in width shall be provided along the perimeter of any lot boundary abutting a residentially zoned lot where a utility support structure is constructed.

**§195-31** Home Based Business, permitted accessory use in R-1 and R-2 Districts.

All home based business shall comply with the following:

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

## ARTICLE VI

### Off-Street Parking and Loading

#### §195-32 Intent

Provisions of this Article are of general application to several of the districts described in Article III. It is the intent of this Article to set down provisions for off-street parking and loading areas, to prevent congestion in the street, to promote and protect property values and to provide for the health, safety and welfare of the citizenry.

#### §195-33 Off-Street Parking

Each off-street parking space shall have a net area of not less than two hundred (200) square feet exclusive of driveways or aisles and shall be of usable shape and condition, to determine on a gross area basis, three hundred (300) square feet shall be allowed per vehicle. If the required parking space for a one- or two-family dwelling is not provided in a covered garage, then such space shall be not less than two hundred (200) square feet and shall be so located and/or constructed that it may later be covered by a garage structure in accordance with the provisions of this Chapter and the Borough Building Code.

- A. Location: Off-street parking facilities shall be located as hereinafter specified. Where a distance is specified, such distance shall be the walking distance measured from the nearest point of the parking facility to the nearest point of the building that such facility is required to serve:
- (1) For one- and two-family: On the same lot with the building they are required to serve.
  - (2) For multiple dwellings: not more than one hundred feet (100').
  - (3) For hospitals, sanitariums, convalescent homes, nursing homes, rest homes, homes for the aged, retirement homes, rooming and boarding houses: not more than three hundred feet (300').
  - (4) For uses other than those specified above: not more than five hundred feet (500').
- B. Expansion and Enlargement: Whenever any building is enlarged in height or in ground coverage, off-street parking shall be provided for the expansion or enlargement in accordance with the requirements of the schedule. However, no parking space need be provided in the case of enlargement or expansion where the number of parking spaces required for such expansion or enlargement is less than ten percent (10%) of the parking spaces specified in the schedule for the

building. Nothing in this provision shall be construed to require off-street parking spaces for the portion of such building existing at the time of passage of this Chapter.

- C. Existing Uses: Nothing in this Chapter shall be deemed to prevent the voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings, provided that all regulations herein governing the location, design and operation of such facilities are adhered to.
- D. Surfacing: All open off-street parking areas, except those accessory to single-family dwellings, shall be improved with a six inch (6") base, with asphalt, tar and chips, concrete or other similar dustless surface material of adequate thickness to support the weight of fully-loaded vehicles which customarily park or travel on it.
- E. Mixed occupancies: In the case of mixed uses, the total requirements for the various uses shall be computed separately. Off-street parking facilities for one (1) use shall not be considered as hereinafter specified for joint use.
- F. Table of Minimum Standards: Required off-street parking spaces shall be in conformance with the following table, and where alternative standards prevail, the greater applies in conflicting computations:

**Table of Minimum Standards**

Use	Number of Spaces Required
Residential, single-family	2 per dwelling unit
Residential, duplex or multifamily	2 per dwelling unit
Boardinghouses, lodging homes and similar uses	1 per dwelling unit
Group care facilities including personal care homes and long term nursing facilities	1 per 6 beds, plus 1 per maximum number of staff on duty
Day care centers	1 per each 3 persons accommodated plus 1 per each employee
Retirement homes	0.5 per dwelling unit
Motels, motor courts and hotels	1 per sleeping room
Hospitals and institutions	1 per 3 beds, plus 1 per maximum number of staff on duty
Theaters	1 per 3 seats
Churches, auditoriums and similar enclosed places of assembly	1 per 3 seats or 60 linear inches of pew or 40 square feet of gross floors area used for assembly purposes

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Use	Number of Spaces Required
Stadiums, fairgrounds and similar open assemblies	1 per 8 seats and/or 1 per 100 square feet of assembly space without fixed seats
Bowling alleys	5 per alley
Medical and dental clinics	1 per 50 square feet of gross floor area
Banks, business and professional	1 per 50 square feet of gross floor area with on-site customer service floor area
Offices not providing customer services	1 per 4 employees or 1 per 800 square feet of gross floor area
Mortuaries	1 per 75 square feet of gross floor area used for assembly
Warehouse, storage and wholesale business and freight terminals	1 per 2 employees on maximum working shift
Food and beverage places with sale and consumption on premises:	
If less than 4,000 square feet of floor area	1 per 200 square feet of gross floor area
If over 4,000 square feet of floor area	20, plus 1 per 100 square feet of gross floor area in excess of 4,000 square feet
Drive-in facilities and roadside stands	5 per 100 square feet of gross floor area
Furniture, appliance	1 per 800 square feet of gross floor area
Hardware, clothing, shoe, personal service stores	1 per 400 square feet of gross floor area
Motor vehicle, machinery, plumbing, heating, ventilating, building supplies stores and services	1 per 1,000 square feet of gross floor area or 1 per 3 employees
Other retail:	
If less than 5,000 square feet of floor area	1 per 300 square feet of gross floor area
If over 5,000 square feet of floor area	15, plus 1 per 100 square feet in excess of 5,000
Manufacturing uses, research, testing and processing, assembling, all industries	1 per 2 employees on maximum shift and not less than 1 per each 800 square feet of gross floor area
Libraries and museums	1 per 250 square feet of gross floor area
Schools: elementary and junior high, public, private or parochial	1 per each employee and each faculty member

Use	Number of Spaces Required
Schools: high, public, private or parochial	1 per 50 students, plus 1 per each employee and each faculty member

G. Plans: The plan of the proposed parking area shall be submitted to the Zoning and Codes Officer at the time of the application for the building for which the parking area is required. The plan shall clearly indicate the proposed development, including location, size, shape, design, curb cut, lighting, landscaping, construction details and other features and appurtenances required. All traffic control devices such as parking stripes designating car stalls, direction arrows or signs, bull rails, curbs and other developments shall be installed and completed as shown on the approved plan.

H. Shared Parking: Where the normal operating hours of businesses in close proximity to each other are such that the need for specific required parking spaces can be shared during the course of a twenty-four (24) hour period, Borough Council will consider shared parking upon the recommendation of the Planning Commission.

**§195-34 Off-Street Loading**

- A. Each off-street loading space shall measure not less than thirty feet by twelve feet (30' x 12') and shall have an unobstructed height of fourteen feet, six inches (14' 6"). And shall be made permanently available for such purposes and shall be hard-surfaced, improved and maintained.
- B. Table of Minimum Standards: Required loading spaces shall be in conformance with the following table:

**Table of Minimum Standards**

Department stores, freight terminals, hospitals, sanitariums, industrial or manufacturing establishments, retail or wholesale stores or storage warehouses or any similar use which has or intends to have ten thousand (10,000) square feet or more shall provide truck loading or unloading berths:	
Square Feet of Aggregate Gross Floor Area	Required Number of Berths
10,000 to 15,999	1
16,000 to 39,999	2
40,000 to 65,000	3
For each additional 16,000	1 additional
Auditoriums, convention or exhibit halls, sports arenas, hotels, office buildings,	

restaurants or similar uses which have or intend to have an aggregate gross floor area of forty thousand (40,000) square feet or more shall provide truck loading or unloading berths:

<b>Square Feet of Aggregate Gross Floor Area</b>	<b>Required Number of Berths</b>
40,000 to 59,999	1
60,000 to 99,999	2
100,000 to 160,000	3
For each additional 60,000	1 additional

## **ARTICLE VII**

### **Signs**

#### **§195-35 Compliance Required**

Signs shall be considered permitted accessory uses in each zoning district and may be erected and maintained only when in compliance with the provisions of this Article.

#### **§195-36 Signs in Residential Districts**

A. The following types of nonadvertising signs are permitted in all residential districts as follows:

(1) Nameplates and identification signs, nonilluminated:

- (a) Signs indicating the name or address of the occupant, provided that they shall not be larger than two (2) square feet in area. Only one (1) such sign per dwelling unit shall be permitted except in the case of corner lots where two (2) such signs [one (1) facing each street] shall be permitted for each dwelling unit.
- (b) For apartment buildings or buildings other than dwellings, a single identification sign not exceeding six (6) square feet in area and indicating only the name and address of the building and the name of the management may be displayed, provided that on a corner lot, two (2) such signs [one (1) facing each street] shall be permitted.

(2) Sale or rental signs, nonilluminated: Signs advertising the sale or rental of the premises upon which they are erected by the owner or broker or any other person interested in the sale or rental of such premises, and signs

bearing the word “sold” or “rented” with the name of persons effecting the sale or rental, may be erected or maintained, provided that:

- (a) The size of any such sign is not in excess of six (6) square feet; and
  - (b) Not more than one (1) signs is placed upon any property unless such property fronts upon more than one (1) street, in which event one (1) additional sign may be erected on each additional frontage.
- (3) Institutional signs:
- (a) Signs of schools, colleges, churches, hospitals, sanatoria or other institutions of a similar public or semipublic nature may be erected and maintained, provided that:
    - [1] The size of any such sign is not in excess of thirty (30) square feet; and
    - [2] Not more than one (1) such sign is placed on a property unless such property fronts upon more than one (1) street, in which event two (2) such signs may be erected, one (1) on each frontage.
  - (b) Such signs may be illuminated, provided that the light is directed away from adjoining premises.
- (4) Signs accessory to parking areas: Signs designating entrances or exits to or from a parking area shall be permitted and shall be limited to one (1) sign for each exit or entrance and to a maximum size of two (2) square feet each. One (1) sign per parking area designating the conditions of use or identity of such parking area and limited to a maximum size of nine (9) square feet shall be permitted, provided that on a corner lot, two (2) such signs shall be permitted, one (1) facing each street. Such signs may be illuminated, provided that the light is directed away from adjoining premises.
- (5) Development signs, nonilluminated: Signs advertising the sale or development of the premises upon which they are erected, when erected in connection with the development of the premises by a building contractor, developer or other persons interested in such sale or development, may be erected and maintained, provided that:

- (a) The size of any sign is not in excess of twenty (20) square feet;
  - (b) Not more than two (2) signs are placed upon any property unless such property fronts on more than one (1) street, in which event two (2) such signs may be erected on each such frontage; and
  - (c) Any such sign shall be removed by the developer within thirty (30) days of the final sale of property.
- (6) Directional signs, nonilluminated: Signs indicating the location and direction of premises available for or in process of development but not erected upon such premises, and having inscribed thereon the name of the owner, developer, building or agent, may be erected and maintained, provided that:
- (a) The size of any such sign is not in excess of six (6) square feet and not in excess of four feet (4') in length; and
  - (b) Not more than one (1) such sign is erected on each five hundred feet (500') of street frontage.
- (7) Artisans' signs: 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 that:
- (a) The size thereof is not in excess of fifteen (15) square feet; and
  - (b) Such signs are removed promptly upon completion of the work.
- (8) Private driveways: Signs indicating the private nature of a driveway or trespassing signs shall be permitted, provided that the size of any such sign shall not exceed two (2) square feet.
- B. Height and Projection of Signs: No sign in an R District shall project into the public way or project higher than one (1) story or twenty feet (20'), whichever is lower.
- C. Billboards: Billboards are specifically prohibited in any R District.

**§195-37 Signs in TC and I Districts**

- A. Any sign permitted in the residential districts is permitted in the TC and I Districts.
- B. Business signs identifying the occupant, profession, commodity or service sold or offered upon the same premises where the sign is to be located or affixed shall be permitted as follows:

- (1) Size of Signs:
  - (a) Projecting Signs: The size of any projecting sign affixed to a building or structure in accordance with Article VII shall not exceed a gross surface area of one hundred (100) square feet in any TC District or more than one hundred fifty (150) square feet in an I District.
  - (b) Wall, flush, or nonprojecting signs: The gross surface area of a wall, flush or nonprojecting sign shall not exceed ten percent (10%) of the area of the designated surface of the building or structure where the sign is to be located or affixed. However, only that portion of the designated surface directly related to the business use shall be used in computing the permitted area of the sign.
- (2) Location of Signs: In any TC District, all signs shall be securely attached to a building. Free-standing signs shall be permitted in the I District only, provided that no such sign shall be nearer to any property line than fifty feet (50').
- (3) Illumination of Signs: Flashing signs and revolving illuminated signs shall be considered as a special exception, subject to review by the Zoning Hearing Board, and provided that such signs shall not create any traffic hazard or abut or face any residential property or any residential zone lot. Stationary illuminated signs are permitted in all TC or I Districts.

C. Billboards:

- (1) Billboards are specifically prohibited in the TC District.
- (2) Billboards are permitted in the I District only and shall not exceed one hundred (100) square feet in area. In addition, all such signs shall comply with the following criteria:
  - (a) Erected a minimum of fifty feet (50') from the closest property line;
  - (b) Shall not exceed twenty feet (20') in height;
  - (c) Erected with a minimum ten feet (10') of space between the average grade and bottom of the sign or sign structure.

**§195-38 General Regulations**

The following regulations apply to all permitted signs:

- A. Maintenance: Signs shall be constructed of durable materials, maintained in good condition and not allowed to become dilapidated.

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- B. Wall Signs: Display signs placed against the exterior walls of buildings or structures shall not extend more than fifteen inches (15”) out from the wall surface. Wall signs exceeding forty (40) square feet in area shall be of noncombustible material.
- C. Projecting Signs: Signs may project from the wall of any building or structure into the right-of-way. However, no sign shall extend nearer to the perpendicular upward projection of any curb line than three feet (3”). A clear space of not less than ten feet (10’) shall be provided below all parts of projecting signs. Projecting signs exceeding twenty (20) square feet in area shall be made of noncombustible material.
- D. Height of Signs: No sign shall be higher than the height limit in the district where such sign is located nor shall any sign be located upon the roof of any building.
- E. Building Permits for Signs: Building permits shall be required for all signs having a gross area of more than nine (9) square feet. For signs in the interest of the public for information and convenience, the Zoning and Codes Officer, upon approval by the Zoning Hearing Board may issue a temporary permit for a period to be designated by the Board. Such temporary signs shall be removed by the property owner at the expiration of any permit for the erection thereof.
- F. Fees: No fee shall be charged for any permit connected with the erection of a sign necessary to the public welfare.

## ARTICLE VIII

### Zoning Hearing Board; Appeals

#### §195-39 Membership

A Zoning Hearing Board is hereby established which shall consist of three (3) members, residing within the Borough, to be appointed by the Council. One (1) member shall be appointed for one (1) year, one (1) member for two (2) years and one (1) member for three (3) years, and each subsequent term shall be for three (3) years. Members of the Board shall hold no other office in the Borough. Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority of vote of the Council, taken after the member has received fifteen (15) days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing. Vacancies shall be filled by resolution of the Council for the unexpired term of the member affected.

#### §195-40 Proceedings

- A. The Zoning Hearing Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf, and the parties may waive further action by the Board as provided in Subsection B herein. The Board shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Chapter. Meetings shall be schedule at a regular time each month and may also be called by the Chairman. The Board may cancel the regular monthly meeting if no matters are pending for its consideration. The Board shall keep full public records of its business and shall submit a report of its activities to the Council once a year.
- B. Hearings: The Board shall conduct hearings and make decisions in accordance with the following requirements:
  - (1) Notice shall be given to the public, the applicant, the Zoning and Codes Officer, such other persons as the Borough Council shall designate by ordinance and any other person who has made timely request for notice. Written notices shall be sent to the recipient's last known address of record not less than fifteen (15) days before the hearing.

- (2) Public notice shall be published twice, once in each of two (2) consecutive weeks, in a newspaper of general circulation in the Borough. The first publication shall be not more than thirty (30) days and the second notice shall be not less than seven (7) days from the date of the hearing. The notice shall state the date, time and place of the hearing and the particular nature of the matter to be considered. A written notice shall also be posted at the municipal building not less than seven (7) days before the date of the hearing until the hearing. If the hearing involves a particular property, a notice of the hearing shall be conspicuously posted on the affected location at least seven (7) days before the hearing.
- (3) Fees, as set forth in Article XI, shall be established and collected in order to cover advertising costs and administrative overhead. Such costs shall not include legal expenses, expert witness costs or fees charged by consultants retained by the Board.
- (4) The hearing shall be held within sixty (60) days from the date of receipt of the applicant's written request, unless the applicant has agreed, in writing, to an extension of time.
- (5) The hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision, or where no decision is called for, the findings shall be made by the Board. However, the applicant or appellant, as the case may be, in addition to the Borough, may, prior to the decision of the hearing, waive the decision or findings by the Board and accept the decision or findings of the hearing officer as final.
- (6) The parties to the hearings shall be the Borough, any person affected by the application who has made timely appearance of record before the Board and any person or civic or community organization permitted to appear by the Board. All persons or organizations who or which wish to be considered parties shall enter appearances in writing on forms provided by the Board.
- (7) The Chairman or Acting Chairman of the Board or the hearing officer presiding shall have power to administer oaths and issues subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

- (8) The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and arguments and to cross-examine adverse witnesses on all relevant issues.
- (9) Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- (10) The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or the hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.
- (11) The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed, and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- (12) The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last day of the hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of the Pennsylvania Municipalities Planning Code, or of this Chapter or any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within forty-five (45) days of the last hearing, and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of

findings. The Board's decision shall be entered no later than thirty (30) days after the report of the hearing officer.

- (13) Where the Board fails to render the decision within the period required by this Subsection or fails to hold the required hearing within sixty (60) days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed, in writing or on the record, to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in Subsection (12) herein. Nothing in this Subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
- (14) A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him by the Chairman of the Zoning Hearing Board not later than the day following the date of the decision. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide, by mail or otherwise, and with the assistance of the Borough Secretary, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

#### **§195-41 Powers and Duties**

- A. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
  - (1) Substantive challenges to the validity of any land use ordinance, except those brought before the Borough Council pursuant to § 609.1 and 916.1(a)(2) of the Pennsylvania Municipalities Planning Code, Act 247, as amended.
  - (2) Challenges to the validity of a land use ordinance raising procedural questions of alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance. Where the ordinance appealed from is the initial Zoning Ordinance of Evans City Borough, and the Zoning Hearing Board has not been previously established, the appeal raising procedural questions shall be taken directly to court.

- (3) Appeals from the determination of the Zoning and Codes Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
  - (4) Appeals from a determination by the Borough Engineer or the Zoning and Codes Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance.
  - (5) Applications for variances from the terms of this Chapter and flood hazard ordinance or such provisions within a land use ordinance, pursuant to § 910.2 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.
  - (6) Applications for special exceptions under this Chapter or floodplain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to § 912.1 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.
  - (7) Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this Chapter.
  - (8) Appeals from the Zoning and Codes Officer's determination under § 916.2 of the Pennsylvania Municipalities Planning Code.
  - (9) Appeals from the determination of the Zoning and Codes Officer or the Borough Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involved Article V or VII applications of the Pennsylvania Municipalities Planning Code, Act 247, as amended.
- B. The Borough Council shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
- (1) All applications for approvals of Planned Residential Developments under Article VII of the Pennsylvania Municipalities Planning Code, Act 247, as amended, and pursuant to the provisions of § 702.
  - (2) All applications pursuant to § 508 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, for approval of subdivisions or land developments under Article V. Any provision in a subdivision and land development ordinance requiring that final action concerning subdivision

and land development applications be taken by the Planning Commission rather than the Borough Council shall vest exclusive jurisdiction in the Planning Commission in lieu of the Borough Council for purposes of the provisions of this Section.

- (3) Applications for conditional use under the express provisions of this Chapter pursuant to § 603(c)(2) of the Pennsylvania Municipalities Planning Code, Act 247, as amended.
  - (4) Applications for curative amendment to this Chapter pursuant to §§ 609.1 and 916.1(a)(2) of the Pennsylvania Municipalities Planning Code.
  - (5) All petitions for amendments to land use ordinances, pursuant to the procedures set forth in § 609 of the Pennsylvania Municipalities Planning Code, Act 247, as amended. Any action on such petitions shall be deemed legislative acts, provided that nothing contained in this clause shall be deemed to enlarge or diminish existing law with reference to appeals to court.
  - (6) Appeals from the determination of the Zoning and Codes Officer or the Borough Engineer in the administration of any land use ordinance or provisions thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to application for land development under Articles V and VII of the Pennsylvania Municipalities Planning Code, Act 247, as amended. Where such determination relates only to development not involving an Article V or VII application, the appeal from such determination of the Zoning and Codes Officer or the Borough Engineer shall be to the Zoning Hearing Board pursuant to this Section. Where the applicable land use ordinance vests jurisdiction for final administration of subdivision and land development applications in the Planning Commission, all appeals from determinations under this Subsection shall be to the Planning Commission and all appeals from the decision of the Planning Commission shall be to court.
  - (7) Applications for a special encroachment permit pursuant to § 405 and applications for a permit pursuant to § 406 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.
- C. Variances from the Terms of this Chapter or the Floodplain Regulations: The Board shall hear requests for variances where it is alleged that the provisions of this Chapter or other ordinance inflict unnecessary hardship upon the applicant.

- (1) The applicant shall submit to the Secretary of the Board prior to the scheduling of the hearing a written statement demonstrating where relevant, that all the following criteria are applicable to the particular case:
  - (a) That 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 Chapter in the neighborhood or district in which the property is located.
  - (b) That because of such physical circumstances or conditions, there is not possibility that the property can be developed in strict conformity with the provisions of this Chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
  - (c) That such unnecessary hardship has not been created by the appellant.
  - (d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, not be detrimental to the public welfare.
  - (e) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- (2) In addition to written and public notices, property owners of record within two hundred feet (200') of the exterior boundaries of the property for which the variance is sought shall be notified by mail at least fifteen (15) days before the hearing.
- (3) The Board shall make findings that the relevant requirements of §195-41 C have been met by the applicant and shall further make a finding that the granting of a variance will be in harmony with the general purpose and intent of this Chapter and the Comprehensive Plan of the Borough of Evans City.
- (4) In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Chapter.
- (5) The Zoning Hearing Board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or

both. Failure to begin or complete, or both, such action within the time limit set shall void the variance.

- (6) Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Chapter in that District.

D. Special Exceptions Under the Terms of this Chapter or the Floodplain Regulations: The Zoning Hearing Board shall hear and decide requests for special exceptions as stated in this Chapter.

- (1) A special exception shall not be granted by the Board until:
  - (a) A written application for a special use is submitted, stating the grounds on which it is requested.
  - (b) Notice of public hearing shall be given as in §195-40 B.
  - (c) The Public Hearing Shall be Held: Any party may appear in person or by agent or by attorney.
- (2) The Board, before it grants a special exception, shall make findings of fact and state its reasons for granting the special exception. The findings of fact shall include:
  - (a) That the use will not endanger the public health or safety if located where proposed and developed, and that the use will not allow conditions which will tend to generate nuisance conditions such as noise, dust, glare or vibration.
  - (b) That the use meets all required conditions and specifications set forth in the district where it proposes to locate.
  - (c) That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Plan for the Borough.
- (3) To ensure the establishment of the above conditions, the Zoning Hearing Board shall have the authority to require and approve specific plans and to increase the requirements set forth above and requirements elsewhere in this Chapter, but in no case shall the Board have the authority to decrease the requirements of this Chapter for any use in the district it proposes to locate. Any such decrease in the requirements of this Chapter shall only be granted upon the issuance of a variance. All conditions required by the Board shall be entered in the minutes of the meeting at which the permit is granted and also on the certificate of the special exception.

- (4) The Board shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception permit.

**§195-42 Stay of Proceedings**

Upon filing of any proceeding and during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning and Codes Officer or of any agency or body and all official action thereunder shall be stayed unless the Zoning and Codes Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals on petition after notice to the Zoning and Codes Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board. The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court.

**§195-43 Appeals from Zoning Hearing Board**

Any person or persons or any board, taxpayer, department or bureau of the Borough aggrieved by any decision of the Zoning Hearing Board may seek review by the Court of Common Pleas. Such appeal shall be initiated by serving and filing a petition for the writ within thirty (30) days after the Board's decision has become final.

**§195-44 Rehearing**

If an application for a variance, appeal from the Zoning and Codes Officer or special exception is denied by the Zoning Hearing Board, another application shall not be filed within a period of one (1) year from the date of denial, except upon the initiation of the Zoning Hearing Board after a showing of a change of circumstances which would warrant a rehearing.

**§195-45 Time Limitations**

No person shall be allowed to file any proceedings with the Board later than thirty (30) days after an application for development, preliminary or final, has been approved by the appropriate Borough official or agency, if such proceeding is designed to secure reversal

or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest.

**§195-46 Mediation Option**

- A. Parties to proceedings authorized in this Article and Article X-A of the Pennsylvania Municipalities Planning Code may utilize mediation as an aid in completing such proceedings. In proceedings before the Zoning Hearing Board, in no case shall the Zoning Hearing Board initiate mediation or participate as a mediating party. Mediation shall supplement, not replace, those procedures in this Article and Article X-A once they have been formally initiated. Nothing in this section shall be interpreted as expanding or limiting municipal police powers or as modifying any principles of substantive law.
- B. Participation in mediation shall be wholly voluntary. The appropriateness of mediation shall be determined by the particulars of each case and the willingness of the parties to negotiate. Any municipality offering the mediation option shall assure that, in each case, the mediating parties, assisted by the mediator as appropriate, develop terms and conditions for:
  - (1) Funding mediation.
  - (2) Selecting a mediator who, at a minimum, shall have a working knowledge of municipal zoning and subdivision procedures and demonstrated skills in mediation.
  - (3) Completing mediation, including time limits for such completion.
  - (4) Suspending time limits otherwise authorized in this act, provided there is written consent by the mediating parties, and by an applicant or municipal decision making body if either is not a party to the mediation.
  - (5) Identifying all parties and affording them the opportunity to participate.
  - (6) Subject to legal restraints, determining whether some or all of the mediation sessions shall be open or closed to the public.
  - (7) Assuring that mediated solutions are in writing and signed by the parties, and become subject to review and approval by the appropriate decision making body pursuant to the authorized procedures set forth in the other sections of the Pennsylvania Municipalities Planning Code.

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

## ARTICLE IX

### Nonconforming Uses and Structures

#### §195-47 Applicability

The provisions of this Article shall apply to buildings, structures, signs, lands and uses which became nonconforming as the result of the application of this Chapter to them or from classification or reclassification of the property under this Chapter or any subsequent amendments thereto.

#### §195-48 Nonconforming Lots of Record

- A. In any district in which single-family dwellings are permitted notwithstanding limitations imposed by other provisions of this Chapter, 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 Chapter. Such lot must be in separate ownership and not of contiguous 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 both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of area, width and yard requirements shall be obtained only through action of the Zoning Hearing Board.
- B. If two (2) 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 Chapter and if all or part of the lots do not meet requirements for lot width and area as established by this Chapter, the lands involved shall be considered to be an undivided parcel for the purposes of this Chapter, and no portion of such parcel shall be used or sold which does not meet lot width and area requirements established by this Chapter, nor shall any division of the parcels be made which leaves remaining any lot with width or area below the requirements stated in this Chapter.

**§195-49 Nonconforming Uses of Land**

Where, at the effective date of adoption or amendment of this Chapter, lawful use of land exists that is made no longer permissible under the terms of this Chapter as enacted or amendment, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- A. No such nonconforming 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 Chapter.
- B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use on the effective date of adoption or amendment of this Chapter.
- C. If any such nonconforming use of land intentionally ceases for any reason for a period of one (1) year, any subsequent use of such land shall conform to the regulations specified by this Chapter for the district in which such land is located.

**§195-50 Nonconforming Structures**

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

- A. No such structure may be enlarged or altered in any way which increases its nonconformity, unless an enlargement or structural alteration makes the building more conforming or is required by law.
- B. Should such structure be destroyed by any means to an extent up to 99% of its replacement cost at the time of destruction, it may be reconstructed in its existing location on the lot.
- C. Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- D. Structural alterations may be permitted if necessary to adapt a nonconforming building to new technologies or equipment pertaining to uses housed in such building. Any enlargement necessary to adapt to new technologies shall be authorized as a natural expansion of a legal nonconforming use.

### §195-51 Nonconforming Uses of Structures

If a lawful use of a structure or of structure and premises in combination exists at the effective date of adoption or amendment of this Chapter that would not be allowed in the district under the terms of this Chapter, 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 Chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered to exceed more than forty percent (40%) of the original area occupied, except in changing the use of the structure to a use permitted in the district in which it is located, unless approved by the Zoning Hearing Board as a special exception.
- B. Any nonconforming 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 Chapter, but no such use shall be extended to occupy any land outside such building, unless approved by the Zoning Hearing Board as a special exception.
- C. If no structural alternations are made, any nonconforming use of a structure or structure and premises may be changed to another nonconforming use, provided that the Zoning Hearing Board, either by general rule or by making findings in the specific case, finds that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Zoning Hearing Board may require appropriate conditions and safeguards in accordance with the following:
  - (1) The proposed change in use shall not result in traffic congestion or hazard;
  - (2) Shall be suitable for the property in question and maintained so as to be in harmony with the existing neighborhood;
  - (3) Shall be in the best interests of the Borough; and
  - (4) Shall be in conformance with the applicable provisions of this Chapter and all current Borough Ordinances.
- D. Any structure or structure and land in combination in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

- E. When a nonconforming use of a structure or structure and premises in combination is intentionally discontinued or abandoned for a period of one (1) year, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located.
- F. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

**§195-52 Repairs and Maintenance**

Nothing in this Chapter 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.

**§195-53 Registration of Nonconforming Uses**

It shall be the responsibility of the Zoning and Codes Officer to identify and may register all nonconforming uses, structure or lots established prior to the adoption of this Chapter or created by rezoning amendments. The information shall be kept on a map showing the exact location of each nonconforming use, and such map shall be kept current as nonconformities are removed or new ones created by amendment. The record shall indicate the documentation provided for the Zoning and Codes Officer to determine each nonconformity.

**§195-54 Historical Landmarks**

The provisions of this Article shall not apply to any building or structure which is designated by the Planning Commission, with concurrence of the Council, to be an historical landmark.

## ARTICLE X

### Amendments

#### §195-55 Procedure

- A. The regulations, restrictions standards, criteria and zoning district boundaries set forth in this Chapter (or referenced herein) may from time to time be amended, supplemented, changed or repealed. However, no such action shall be taken until after a public hearing in relation thereto, at which time interested parties and citizens shall have an opportunity to be heard.
- B. An amendment, supplement, change or repeal of language in this Chapter may be initiated by:
  - (1) A resolution or request by the Council;
  - (2) An official proposal by the Planning Commission; or
  - (3) A petition to the Planning Commission presented by the property owner or contract purchaser on forms provided by the Borough and accompanied by information prescribed by the Planning Commission.
- C. All requests to amend, supplement, change or repeal language in this Chapter shall first be referred to the Planning Commission for review and recommendation.

#### §195-56 Enactment of Zoning Ordinance Amendments: All references to Sections refer to the Pennsylvania Municipalities Planning Code.

- A. For the preparation of amendments to zoning ordinances, the procedure set forth in section 607 for the preparation of a proposed zoning ordinance shall be optional.
- B. Before voting on the enactment of an amendment, Borough Council shall hold a public hearing thereon, pursuant to public notice. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by Evans City Borough at points deemed sufficient by Evans City Borough along the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.
  - 1. In addition to the requirement that notice be posted under Subsection B, where the proposed amendment involves a zoning map change, notice of

the public hearing shall be mailed by Evans City Borough at least thirty days prior to the date of the hearing by first class mail to the addresses to which real estate tax bills are sent for all real property located within the area being rezoned, as evidenced by tax records within the possession of Evans City Borough. The notice shall include the location, date and time of the public hearing. A good faith effort and substantial compliance shall satisfy the requirements of this subsection.

2. The requirements of Subsection B-1 herein shall not apply when the rezoning constitutes a comprehensive rezoning.
- C. In the case of an amendment other than that prepared by the Planning Commission, Borough Council shall submit each such amendment to the Planning Commission at least 30 days prior to the hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendations.
- D. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
- E. At least thirty (30) days prior to the public hearing on the amendment by the local Borough Council, Evans City Borough shall submit the proposed amendment to the Butler County Planning Commission for recommendations.
- F. Evans City Borough may offer a mediation option as an aid in completing proceedings authorized by this section. In exercising such an option, Evans City Borough and mediating parties shall meet the stipulations and follow the procedures set forth in Article XI.
- G. Within 30 days after enactment, a copy of the amendment to the zoning ordinance shall be forwarded to Butler County for archiving.

### **§195-57 Rehearing**

If a petition for rezoning is denied by either the Planning Commission or the Council, another petition for a change to the same zone district shall not be filed within a period of one (1) year from the date of denial, except upon the initiation of the Council or with the permission of or upon the initiation by the Planning Commission, after a showing of a change of circumstances which would warrant a rehearing.

**§195-58 Procedure for Landowner Curative Amendments.** All references to Sections refer to the Pennsylvania Municipalities Planning Code.

- A. A landowner who desires to challenge on substantive grounds the validity of a zoning ordinance or map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to Borough Council with a written request that his challenge and proposed amendment be heard and decided as provided in § 916.1. Borough Council shall commence a hearing thereon within 60 days of the request as provided in § 916.1. The curative amendment and challenge shall be referred to the Planning Commission as provided in § 609 and notice of the hearing thereon shall be given as provided in § 610 and in § 916.1.
- B. The hearing shall be conducted in accordance with § 908 and all references therein to the zoning hearing board shall, for purposes of this section be references to Borough Council: provided, however, that the provisions of § 908 (1.2) and (9) shall not apply and the provisions of § 916.1 shall control. If the Borough does not accept a landowner's curative amendment brought in accordance with this subsection and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for the entire zoning ordinance and map, but only for those provisions which specifically relate to the landowner's curative amendment and challenge.
- C. If Borough Council has determined that a validity challenge has merit, it may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment which will cure the challenged defects. Borough Council shall consider the curative amendments, plans and explanatory material submitted by the landowner and shall also consider:
  - 1. The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;
  - 2. If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the ordinance or map;
  - 3. The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features;

4. the impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and
5. the impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

**§195-59 Procedure for Municipal Curative Amendments.** All references to Sections refer to the Pennsylvania Municipalities Planning Code.

If the Borough determines that its zoning ordinance or any portion thereof is substantially invalid, it shall take the following actions:

- A. The Borough shall declare by formal action, its zoning ordinance or portions thereof substantively invalid and propose to prepare a curative amendment to overcome such invalidity. Within 30 days following such declaration and proposal, Borough Council of Evans City Borough shall:
  1. By resolution make specific findings setting forth the declared invalidity of the zoning ordinance which may include:
    - a. references to specific uses which are either not permitted or not permitted in sufficient quantity;
    - b. reference to a class of use or uses which require revision; or
    - c. reference to the entire ordinance which requires revisions.
  2. Begin to prepare and consider a curative amendment to the zoning ordinance to correct the declared invalidity.
- B. Within 180 days from the date of the declaration and proposal, Evans City Borough shall enact a curative amendment to validate, or reaffirm the validity of, its zoning ordinance pursuant to the provisions required by § 609 of the Pennsylvania Municipalities Planning Code in order to cure the declared invalidity of the zoning ordinance.
- C. Upon the initiation of the procedures, as set forth in Subsection A, Borough Council shall not be required to entertain or consider any landowner's curative amendment filed under § 609.1 of the Pennsylvania Municipalities Planning Code nor shall the zoning hearing board be required to give a report requested under § 909.1 or 916.1 subsequent to the declaration and proposal based upon the grounds identical to or substantially similar to those specified in the resolution required by Subsection (1)(a). Upon completion of the procedures as set forth in Subsections (1) and (2), no rights to a cure pursuant to the

provisions of §§ 609.1 and 916.1 shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended zoning ordinance for which there has been a curative amendment pursuant to this section.

- D. The Borough having utilized the procedures as set forth in Subsections (1) and (2) may not again utilize said procedure for a 36-month period following the date of the enactment of a curative amendment, or reaffirmation of the validity of its zoning ordinance, pursuant to clause (2); provided, however, if after the date of declaration and proposal there is a substantially new duty or obligation imposed upon Evans City Borough by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, Evans City Borough may utilize the provisions of this section to prepare a curative amendment to its ordinance to fulfill said duty or obligation.

## **ARTICLE XI**

### **Administration and Enforcement**

#### **§195-60 Duties of Zoning and Codes Officer**

The Zoning and Codes Officer for the Borough of Evans City shall administer and enforce this Chapter in accordance with its literal terms and shall not have the power to permit any construction or any use or change of use which does not conform to this Chapter. The Zoning and Codes Officer shall be appointed by the Borough Council and shall not hold any elective office in the Borough. The Zoning and Codes Officer shall demonstrate to the Borough Council prior to taking office a working knowledge of municipal zoning.

- A. The Zoning and Codes Officer is authorized by the Borough Council to institute civil enforcement proceedings.
- B. If the Zoning and Codes Officer finds that any of the provisions of this Chapter are being violated, he shall initiate enforcement proceedings by sending an enforcement notice to the owner of record of the parcel on which the alleged violation has occurred and to others requesting such notice. The enforcement notice shall state:
- (1) The name of the owner of record and any other person against whom the Borough intends to take action.
  - (2) The location of the property in violation.

- (3) The specific violation, with a description of the requirements which have not been met, citing specific provisions of this Chapter.
- (4) The date before which the steps for compliance must be commenced and completed.
- (5) A statement that the recipient has the right to appeal to the Zoning Hearing Board within thirty (30) days of the notice.
- (6) A statement that failure to comply with the notice within the required time limits, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

**§195-61 Occupancy Permits**

- A. For New Uses: After completion of the whole building or structure and upon the sworn application by the owner or his duly authorized agent setting forth such facts as the Zoning and Codes Officer may require and after actual inspection of the premises by the Zoning and Codes Officer, he shall, upon finding the facts to be as represented, issue in duplicate an occupancy permit, certifying that the premises comply with the provisions of this Chapter and may be used for the purposes set forth in the permit, which purposes shall conform to the requirements of this Chapter.
- B. No change of use shall be made in any building, structure or premises or premises now or hereafter erected or altered that is not consistent with the requirements of this Chapter. Any person desiring to change the use of his premises shall apply to the Zoning and Codes Officer for an occupancy permit, setting forth such facts as may be required.
- C. A copy of the occupancy permit shall be kept at all times upon the premises affected and shall be displayed upon request made by any building inspector, Borough fireman or police officer.
- D. A record shall be kept of all occupancy permits issued, and the original applications therefore shall be kept on file in the same manner as applications for building permits.
- E. No owner, tenant or other person shall use or occupy any building or structure thereafter erected or altered, the use of which shall be changed after the passage of this Chapter (originally June 1, 1970) without first procuring an occupancy permit, provided that an occupancy permit once granted shall continue in effect so long as there is no change of use, regardless of change in the personnel or tenants or occupants.

- F. For Existing Uses: Upon written request from the owner, tenant or occupant, the Zoning and Codes Officer, after inspection, shall issue an occupancy permit for an existing use legally existing at the time this Chapter is made effective, certifying the extent and kind of use and whether any such existing use conforms with the provisions of this Chapter.
- G. No change or extension of use and no alterations shall be made in a nonconforming use or premises without an occupancy permit's having first been issued by the Zoning and Codes Officer stating that such change, extension or alteration is in conformity with the provisions of this Chapter.

**§195-62 Violations and Penalties; Enforcement Remedies**

A. Enforcement Remedies.

- (1) Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of any zoning ordinance enacted under this act or prior enabling laws shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, Evans City 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 has 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 there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the 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 zoning ordinances shall be paid over to Evans City Borough whose ordinance has been violated.
- (2) The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.

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

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

### **§195-63 Complaints Regarding Violations**

Procedures for curative amendments are set forth in Article X, Amendments. See also Subsection B, Causes of Action, of §195-62, Violations and Penalties; Enforcement Remedies.

### **§195-64 Prepayment of Fees Required [Amended 5-5-1986 by Ord. No 391]**

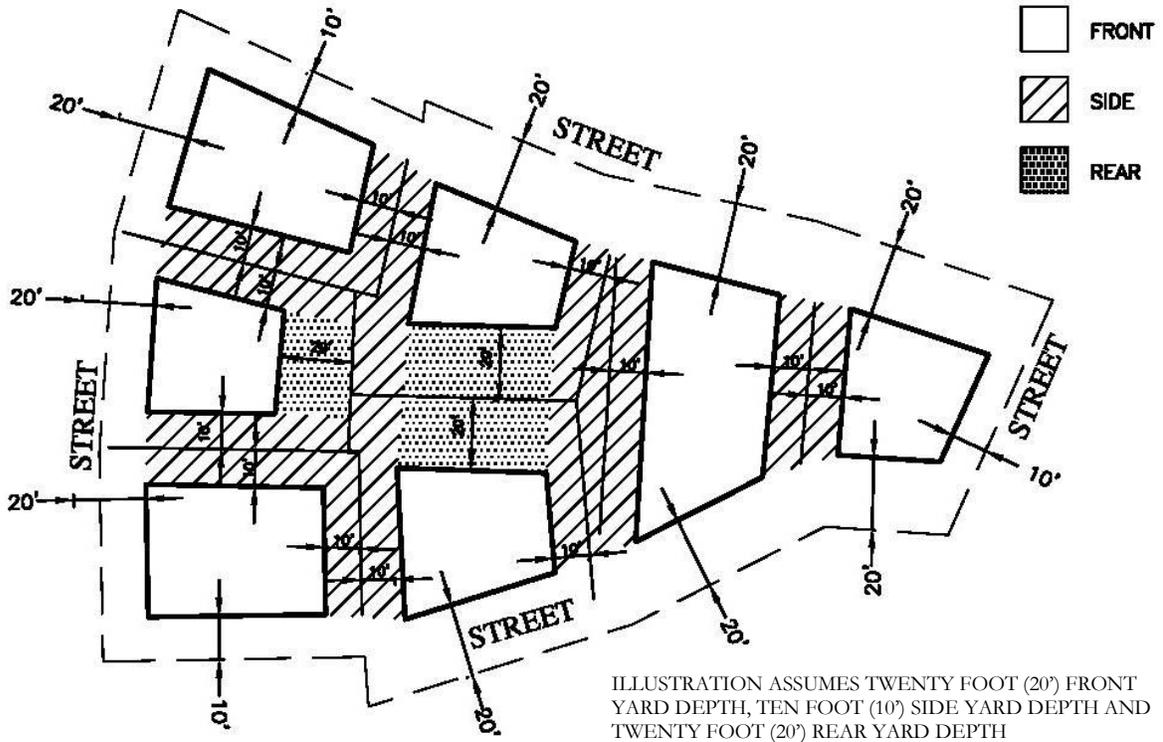
Fees, charges, costs and expenses pertaining to this Chapter are set forth in the schedule of fees adopted by Borough Council, as revised from time to time. No action by the Zoning Hearing Board shall be taken, and no permits, certificates, special exception or variance shall be issued until such costs, charges, fees, or expenses have been paid in full.

### **§195-65 Enforcement Notice:**

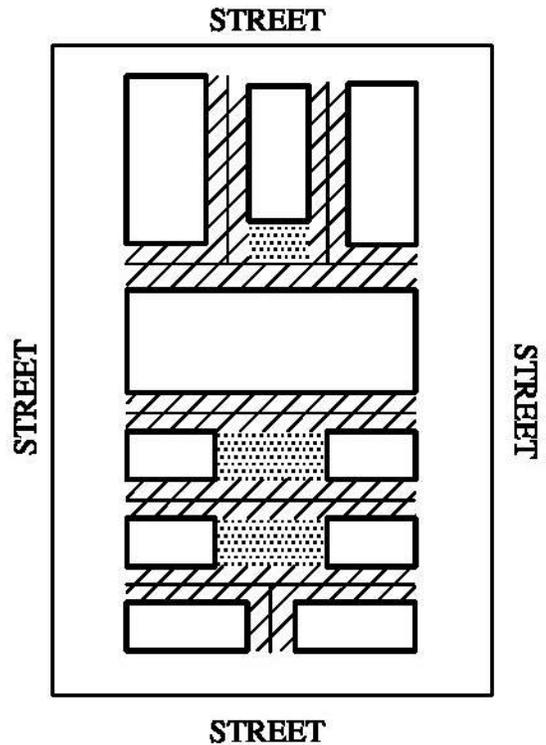
- A. If it appears to Evans City Borough that a violation of any zoning ordinance enacted under this act or prior enabling laws has occurred, Evans City Borough shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.
- B. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.

- C. An enforcement notice shall state at least the following:
- (1) The name of the owner of record and any other person against whom Evans City Borough intends to take action.
  - (2) The location of the property in violation.
  - (3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.
  - (4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
  - (5) That the recipient of the notice has the right to appeal to the zoning hearing board within a prescribed period of time in accordance with procedures set forth in the ordinance.
  - (6) That failure to comply with the notice within the time specified, unless extended by appeal to the zoning hearing board, constitutes a violation, with possible sanctions clearly described.
- D. In any appeal of an enforcement notice to the zoning hearing board Evans City Borough shall have the responsibility of presenting its evidence first.
- E. Any filing fees paid by a party to appeal an enforcement notice to the zoning hearing board shall be returned to the appealing party by Evans City Borough if the zoning hearing board, or any court in a subsequent appeal, rules in the appealing party's favor.

**YARDS ON NONRECTANGULAR LOTS**



**YARDS ON RECTANGULAR LOTS**



**Schedule of Bulk, Dimensional and General Requirements**  
**Borough of Evans City**  
**Chapter 195, Zoning**

District	Minimum Lot Requirements Area (square feet)	Width (feet)	Minimum Yard Requirements			Maximum Impervious Surface	Maximum Height**	Sign Limits	Notes
			Front (feet)	Side (feet)	Rear (feet)				
R-1	10,000*	75*	20	10 each	20	<u>25%</u>	35'	Unlighted; area not to exceed 3 square feet; and as required in Article VII	Off-street parking required in accordance with <a href="#">Article VI</a>
R-2	6,000*	60*	15	10 each	20	<u>50%</u>	35'	Unlighted; area not to exceed 3 square feet, and as required in Article VII	Off-street parking required in accordance with <a href="#">Article VI</a>
TC	No restrictions	--	No restrictions except where abutting an R zone, then:			<u>80%</u>	50'	Article VII	Off-street parking required in accordance with <a href="#">Article VI</a>
	Abutting an R zone	--	None	None	25***		50'		
I	No restrictions	--	No restrictions except where abutting an R zone, then:			75%	80'	Article VII	Off-street parking required in accordance with Article VI
			50	25	15				
<u>BTO</u>	Underlying district minimums and maximums					80%****	Underlying district minimums and maximums		
<u>SQ</u>	Underlying district minimums and maximums					60%****	Underlying district minimums and maximums		

NOTES:

\* This requirement applies where public water and sewer are available. If only water or sewer is available, the minimum lot area shall be ten thousand (10,000) square feet and the minimum lot width seven-five feet (75'). If neither public water or sewer is available, the minimum lot area shall be thirty thousand (30,000) square feet and the minimum lot width one hundred feet (100').

\*\* Height limitations do not apply to farm buildings, church spires, belfries, cupolas and domes, monuments, water towers, fire and hose towers, observation towers, transmission towers, chimneys, flagpoles, smokestacks, radio towers, masts and aerials.

\*\*\* Where a change of use or demolition and redevelopment of an existing lot is proposed, a forty foot (40') rear yard for off-street parking shall be provided.

\*\*\*\* Additional impervious surface shall be provided in side or rear yards only.

**EVANSCITYBOROUGH**  
**Butler County, Pennsylvania**

**CHAPTER 195, ZONING**

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