Chapter 27

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Zoning Map

Part 1

General Provisions

§27-101. Title.

This Chapter shall be known and may be cited as the "Akron Borough Zoning Ordinance."

(*Ord. 12-8-97A*, 12/8/1997, §101)

§27-102. Purpose.

These zoning regulations are enacted to reflect the policy and goals of the Borough of Akron, as set forth in the Borough of Akron Comprehensive Plan, with consideration for the character of the Borough of Akron, its various parts, and the suitability of the various parts for particular uses. The zoning regulations are enacted for the following purposes:

A. To promote, protect, and facilitate the public health, safety, morals, and the general welfare; coordinated and practical community development and proper density of population; emergency management preparedness and operations; the provisions of adequate light and air; access to police protection; vehicle parking and loading space; transportation; water; sewerage; schools; recreational facilities; public grounds; the provision of a safe, reliable and adequate water supply and other public requirements.

B. To prevent overcrowding of land; blight; overburdening of public improvements and facilities; and loss of health, life, or property from fire, panic, or other dangers.

C. To promote safe and adequate travel and transportation facilities and controls.

D. To provide for the use of land within the Borough for residential housing of various dwelling types encompassing all basic forms of housing.

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.

F. To provide consistency between this Chapter, Chapter 17 of the Borough of Akron Code of Ordinances relating to stormwater management and Chapter 22 of the Borough of Akron Code of Ordinances relating to subdivision and land development. [*Ord. 00076*]

(*Ord. 12-8-97A*, 12/8/1997, §102; as amended by *Ord. 00076*, 4/14/2014, §1)

Part 2

Interpretation

§27-201. General Interpretation.

1. In interpreting and applying the provisions of this Chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare. Where the provisions of this Chapter impose greater restrictions than those of any statute, other ordinance, or regulation, the provision of this Chapter shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this Chapter, the provisions of such statute, other ordinance, or regulation shall be controlling. This Chapter is not intended to interfere with, abrogate, or annul any easement, covenant, or other agreement between private parties. However, where this Chapter imposes greater restrictions than those imposed by such easement, covenant, or agreement, the provisions of this Chapter shall govern.

2. Further, this Chapter shall be interpreted consistent with the provisions of the SWMO [Chapter 17] and the SALDO [Chapter 22]. Wherever this Chapter, the SWMO [Chapter 17] or the SALDO [Chapter 22] contain inconsistent provisions, the most logical shall apply. Further, wherever there are similar provisions between the SWMO [Chapter 17], the SALDO [Chapter 22] and this Chapter, the greater restrictions shall apply, including provisions that can be consistently applied among the three Chapters.

(*Ord. 12-8-97A*, 12/8/1997, §201; as amended by *Ord. 00076*, 4/14/2014, §2)

§27-202. Interpretation of Measurements and Computations.

1. *General Rules*. Measurements from rights-of-way or water courses shall be taken from the edge of the right-of-way or water course, rather than center.

2. *Specific Area and Bulk Measurements*. The following regulations shall prescribe the manner in which distances are measured:

A. *Building Area*. A computation using the linear measurements of the exterior surface boundary lines taken at the building's largest horizontal cross-section.

B. *Building Height*. A vertical distance from mean grade to the highest roof beam of a flat roof, or the mean level of the highest grade or slope of a hip roof.

C. *Distance Between Buildings*. The measurement shall be at the narrowest point.

D. *Highway Access Points*. The measurement shall be extended from the termination of one curb cut to the establishment of an adjacent curb cut.

E. *Mean Grade*. As used herein shall be formulated from the average ground level at all corners of a building.

F. *Street Line*. The measurement shall extend perpendicular to and equidistant from the ultimate right-of-way line, unless otherwise dedicated.

(*Ord. 12-8-97A*, 12/8/1997, §202)

Part 3

Application

§27-301. Application of Regulations.

The provisions, regulations, limitations, and restrictions of this Chapter shall apply to all structures, buildings, signs, and/or land and their appurtenant and accessory structures, buildings, and/or signs, including area and street projections, and accessory additions; and shall apply with equal force to municipal, County, State, and private buildings, structures, and/or land which are otherwise specifically provided for by statute.

A. *Conformity of Existing Structures, Buildings, Signs and/or Land*. From and after the effective date of this Chapter, any existing structure, building, sign, land, and/or premises shall not be reconstructed, altered, repaired, extended, replaced, restored, converted or used except in conformity with the regulations hereto specified for the zoning district in which it is located or intended to be located.

B. *Conformity of Proposed Structures, Buildings, Signs and/or Land*. From and after the effective date of this Chapter, any proposed structure, building, and/or sign or portion thereof shall not be erected, constructed, or placed, and any proposed structure, building, sign, land, and/or premises shall not be used or occupied so as to produce greater heights, smaller yards, or less unoccupied area, or greater occupancy than prescribed for such structure, building, sign, use, land, and/or premises in the zoning district in which it is located or intended to be located, or except in conformity with the regulations herein specified in the zoning district, as shown on the Zoning Map, in which it is located or intended to be located.

C. *Conformity of Open Spaces*. Any yard, or open space, or part thereof shall not be included as a part of the yard, or open space similarly required for any other building or structure under this Chapter.

D. *Conformity to SALDO [Chapter 22] and SWMO [Chapter 17]*. All structures, buildings, signs, and/or land or use thereof shall in all respects also comply with the SALDO [Chapter 22] and SWMO [Chapter 17]. [*Ord. 00076*]

(*Ord. 12-8-97A*, 12/8/1997, §301; as amended by *Ord. 00076*, 4/14/2014, §3)

§27-302. Nonspecified Uses.

Where a use is not specifically permitted, it shall be assumed to be prohibited, unless upon appeal, review and approval by the Zoning Hearing Board it shall be considered to be of the same general character, nature and intensity as the permitted uses in that specific zoning district.

(*Ord. 12-8-97A*, 12/8/1997, §302)

Part 4

Nonconformities

§27-401. Existing Nonconformity.

From and after the effective date of this Chapter, any existing structure, building, sign, and/or land or any existing use of structure, building, sign, and/or land not in conformity with the regulations, limitations, restrictions, and provisions herein prescribed shall be regarded as nonconforming, but may be continued in such nonconformity subject to the following limitations.

(*Ord. 12-8-97A*, 12/8/1997, §401)

§27-402. Continuation.

Except as otherwise provided in this Part, any lawful building or structure, or any lawful use of a building, structure (including sign) or land existing at the effective date of this Chapter, or authorized by a building or zoning permit issued prior thereto, may be continued in its existing condition, although such use or structure does not conform to the provisions of this Chapter.

(*Ord. 12-8-97A*, 12/8/1997, §402)

§27-403. Expansion.

No expansion of a nonconforming structure or use shall hereafter be made unless written application has been filed with the Zoning Hearing Board and such expansion has been approved as a special exception subject to the following standards and criteria and those contained in §27-1506 of this Chapter.

A. The expansion of a nonconforming use or structure shall be limited to an area equal to 25 percent of the floor area of structures devoted to the nonconforming use (as to structure) and 25 percent of the surface area (as to use) as they existed on the date on which such use first became lawfully nonconforming.

B. Any expansion of a nonconforming use or structure shall be limited to the lot of record upon which the nonconforming use or structure existed on the date the use of structure became nonconforming.

C. The expansion of a nonconforming use or structures shall comply with the provisions for building height, yard setback, and lot coverage required for similar permitted uses in the district in which the nonconformity in question is located.

D. Except as provided in §27-408, the expansion shall not create new dimensional nonconformities or further increase existing dimensional nonconformities.

E. Any such expansion is to be permitted as a one time action only.

F. Any expansion of a nonconforming use or structure shall also be consistent with the SALDO [Chapter 22] and the SWMO [Chapter 17]. [*Ord. 00076*]

(*Ord. 12-8-97A*, 12/8/1997, §403; as amended by *Ord. 00076*, 4/14/2014, §4)

§27-404. Damage or Destruction of Structures.

A nonconforming structure which is damaged or destroyed may be rebuilt and occupied for the same use as before the damage after obtaining appropriate permits pursuant to Part 16 of this Chapter and provided that:

A. The damage or destruction is unintentional or if intentional, is pursuant to an appropriate permit from the Borough and all other applicable agencies.

B. The previous foundation is to be used for restoration.

C. The reconstructed structure shall not be larger than the damaged structure.

D. The reconstruction shall start within 1 year from the time of damage to the structure.

E. The repair of a nonconforming structure shall not cause the structure to create further expansion in a nonconforming dimension or aspect.

F. The repair or reconstruction will not violate the SALDO [Chapter 22] or SWMO [Chapter 17]. [*Ord. 00076*]

(*Ord. 12-8-97A*, 12/8/1997, §404; as amended by *Ord. 00076*, 4/14/2014, §5)

§27-405. Discontinuance and Abandonment.

If a nonconforming use is discontinued for a period of more than 1 year, then this shall be deemed to be an intent to abandon such use. No nonconforming use may be re-established after it has been determined to have been discontinued or abandoned. Any subsequent use shall conform to the regulations of this Chapter.

(*Ord. 12-8-97A*, 12/8/1997, §405)

§27-406. Change of Nonconforming Use.

Upon written application, the Zoning Hearing Board, by special exception, may permit the substitution of another nonconforming use for a previous nonconforming use in accordance with the following criteria and limitations:

A. The proposed use shall be permitted (1) in a district in which the existing nonconforming use would be a permitted use or (2) in a more restrictive zoning district than a district in which the nonconforming use would be permitted.

B. The proposed use shall not generate more traffic than the existing nonconforming use.

C. The proposed use, if commercial or industrial in nature, shall not have longer hours of operation than the existing nonconforming use.

D. The proposed use shall not generate higher levels of noise, smoke, or glare off the property than the existing nonconforming use.

E. The proposed use shall not be more detrimental to the neighboring properties and uses than the existing nonconforming use.

F. Applicant can prove compliance with §27-1506 of this Chapter.

G. The change will be consistent with the SALDO [Chapter 22] and SWMO [Chapter 17]. [*Ord. 00076*]

(*Ord. 12-8-97A*, 12/8/1997, §406; as amended by *Ord. 00076*, 4/14/2014, §6)

§27-407. Previously Expanded Nonconforming Uses and Structures.

If a use, building, structure, sign, or land was expanded to the limits of expansion for a nonconforming building, structure, sign, or use of land as authorized by a prior zoning regulation or ordinance, no further expansion of said use, building, structure, sign or land shall be authorized. In the event a nonconforming use, building, structure, sign, or use of land was expanded to a portion of the limits of expansion authorized by a prior zoning regulation or ordinance, additional expansion, if permitted by this Chapter, shall only be authorized to the lesser of the amount of expansion not previously utilized pursuant to said prior zoning regulation or ordinance or the expansion permitted under this Chapter, and such additional expansion shall be consistent with the then applicable provisions of the SALDO [Chapter 22] and SWMO [Chapter 17].

(*Ord. 12-8-97A*, 12/8/1997, §407; as amended by *Ord. 00076*, 4/14/2014, §7)

§27-408. Dimensional Nonconformity.

1. *Applicability*. A structure which is nonconforming as to setbacks or lot area may be expanded in accordance with the requirements of §27-403 herein. Only structures which are used for a permitted use or special exception use in the district in which the structure is located shall be permitted to expand in accordance with this Section.

2. *Expansion Limitations*. Structures which are dimensionally nonconforming may only be expanded in accordance with the following regulations:

A. A structure which is located within the required front yard area of the district in which it is located is permitted to expand, provided that the expanded part of the structure will not extend nearer to the street than the part of the existing structure which is nearest to the street and that the minimum side yard and rear yard areas of the district are met.

B. A structure which is located within the required rear yard area of the district in which it is located is permitted to expand, provided that the expanded part of the structure will not extend nearer to the rear property line than that part of the existing structure which is nearest to the property line and that the minimum side yard and front yard areas of the district are met.

C. A structure which is located within a required side yard area of the district in which it is located is permitted to expand, provided that the expanded part of the structure will not extend nearer to the side property line than that part of the existing structure which is nearest to the side property line and that the minimum front yard, rear yard and other side yard areas of the district are met.

D. All structures described above shall be consistent with the SALDO [Chapter 22] and the SWMO [Chapter 17]. [*Ord. 00076*]

3. *Restoration of Dimensionally Nonconforming Structure*. A dimensionally nonconforming structure which is unintentionally destroyed or damaged may be rebuilt and occupied in accordance with the regulations set forth in §27-404 herein.

(*Ord. 12-8-97A*, 12/8/1997, §408; as amended by *Ord. 00076*, 4/14/2014, §8)

§27-409. Substitution of a Conforming Use.

Any use which complies with the regulations for the district in which the nonconforming use is located may be substituted for the nonconforming use. Once a conforming use is established, no nonconforming use shall be permitted in the future. If a nonconforming use is proposed to be eliminated and a conforming use substituted but certain regulations cannot be met (such as area, yard, etc.) the Zoning Hearing Board, upon written application, may grant a special exception to permit such a conforming use, with such appropriate conditions and safeguards as the Board may see fit.

(*Ord. 12-8-97A*, 12/8/1997, §409)

§27-410. Messages of Nonconforming Signs.

1. A change in a message of a nonconforming sign shall not be considered a change in use or structure that requires that any nonconforming use or structure of a site be brought in conformity or be subject to the other restrictions or limitations contained herein relating to changes of structures and uses.

2. Notwithstanding anything else herein to the contrary, any message in any nonconforming sign may be changed without the necessity of requiring that sign's nonconformity be reduced or eliminated.

(*Ord. 12-8-97A*, 12/8/1997, §410)

§27-411. Nonconforming Parking.

See §27-1205.7.

(*Ord. 12-8-97A*, 12/8/1997, §411)

Part 5

Definitions

§27-501. Definition Interpretation.

For the purpose of this Chapter, the terms and words used in this Section shall have the meanings herein defined. Words not defined herein shall be construed according to any definitions contained in the SALDO [Chapter 22] or the SWMO [Chapter 17]. Words that are inconsistently defined or used in the SWMO [Chapter 17] or the SALDO [Chapter 22] shall be interpreted to give logical meaning. Words not herein defined nor defined in the SALDO [Chapter 22] or in the SWMO [Chapter 17] shall have the meanings given in the "*New International Webster's Dictionary of the English Language*, Deluxe Encyclopedia Edition 1995" and shall be interpreted so as to give this Chapter its most reasonable application. For purposes of this Chapter, the following rules of definition interpretation shall apply: [*Ord. 00076*]

A. Words in the present tense include the future tense.

B. Words in the singular include the plural and words in the plural include the singular.

C. The words "used" and "occupied" shall be construed to include the words "or intended, arranged or designed to be used or to be occupied, or offered for occupancy."

D. The term "such as" shall be considered as introducing a typical or illustrative designation of items, and shall not be interpreted as constituting a complete list.

E. The words "person" and "owner" shall be deemed to include a corporation, unincorporated association, limited liability company, limited partnership and a partnership, or other legal entity, as well as one or more individuals.

F. The words "building" and "structure" shall be construed as if followed by the phrase "or part thereof."

G. The word "lot includes the words "plot" and "parcel."

H. The word "watercourse" includes channel, creek, ditch, dry.

I. The word "erect" shall mean to build, construct, alter, repair, display, relocate, attach, hang, place, suspend, affix or maintain any structure or building and shall also include the painting of exterior wall signs and grading of land. This shall only apply when there is or is going to be new construction to a structure.

(*Ord. 12-8-97A*, 12/8/1997, §501; as amended by *Ord. 00076*, 4/14/2014, §9)

§27-502. Definitions.

Accessory building (structure) - a subordinate building or structure, the use of which is incidental to that of a principal building on the same lot.

Accessory use - a use customarily incidental and subordinate to the principal use of a building, or to the principal use of the land and located on the same lot with such principal use or principal building.

Adult bookstore - see §27-1212 hereof.

Adult cabaret - see §27-1212 hereof.

Adult entertainment establishments - see §27-1212 hereof.

Adult mini motion picture theater - see §27-1212 hereof.

Adult model studio - see §27-1212 hereof.

Adult motel - see §27-1212 hereof.

Adult motion picture arcade - see §27-1212 hereof.

Adult motion picture theater - see §27-1212 hereof.

Adult newsrack - see §27-1212 hereof.

Adult theater - see §27-1212 hereof.

Alley - a minor right-of-way, private or publicly owned, used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Alterations to buildings - any changes in a building. Any changes altering the building use.

Applicant - a landowner or developer who has filed, with the consent of the landowner, an application for development, including their heirs, successors and assigns.

Area - the extent of surface contained within the boundaries or extremities of any object.

Bath house - see §27-1212 hereof.

Bed and breakfast inns - an owner occupied dwelling in which a room or rooms are rented on a nightly basis for periods of not more than 7 days. Meals may or may not be provided.

Bed and breakfast unit - a room or group of rooms in a bed and breakfast inn forming a single habitable unit used or intended to be used for living and sleeping, but not cooking or eating purposes.

Boarding house (lodging house, rooming house) - a building or portion thereof arranged or used for longer term (more than one night) sheltering or feeding, or both, for compensation more than five and not more than 10 individuals.

Body painting studio - see §27-1212 hereof.

Borough - the Borough of Akron, Lancaster County, Pennsylvania, and the Borough Council and its designated representative.

Buildings - any structure constructed or used for a residence, business, industry, or other public or private purposes, or accessory thereto, and including porches, swimming pools, tents, lunch wagons, dining cars, trailers, and similar structures, whether stationary or movable, but excluding authorized fences and walls which are part of the landscaping, signs and awnings.

Building area - a computation using the linear measurements of the exterior surface boundary lines taken at the building's largest horizontal cross-section.

Building attached - a building constructed so that one or more walls attach to another building. A building shall not be considered attached merely because a railing, spouting, unenclosed causeway, unenclosed breezeway or similar structure may

incidently attach two buildings together.

Building coverage - see definition of "lot coverage."

Building detached - a building that does not share a wall with another building. A building shall still be considered a detached building if it is connected with a railing, spouting, unenclosed causeway, unenclosed breezeway, or similar structure that may incidently attach two buildings together.

Building height - a vertical distance from mean grade to the highest roof beam of a flat roof, or the mean level of the highest grade or slope of a hip roof.

Building length - the length of the facade of a building measured from its two longest points (whether the facade is continuous or irregular in setback) of any side of a building.

Building line - the line of a structure or building existing at the effective date of this Chapter or the legally established line which determines the location of a future building or structure or portion thereof with respect to any lot line.

Building, principal - see "principal building."

Building setback (yards) - the building setback shall be measured from the greater of the ultimate right-of-way of any public street or from a property line (if not adjacent to a street). All portions of the building, including porches, and eaves, shall be setback behind the building setback. Gutters and/or cornices shall not be considered an infringement of the requirement.

Building (structure) accessory - see "accessory building (structure)."

Campus - a lot in single ownership on which are developed one or more buildings and accessory uses directly related to the purposes of an organization. [*Ord. 99005*]

Cartway - the surface of a street, access drive or alley available for vehicular traffic.

Certificate of use of occupancy - a certificate allowing the use or occupancy of land or buildings following an alteration in a use or structure.

Child daycare - see §27-1203 for definition.

Corner lot - a lot fronting on two streets.

County - the County of Lancaster, Pennsylvania.

Daycare center - see §27-1203 for definition.

Daycare, family home - see §27-1203 for definition.

Density - a measure of the number of dwelling units which occupy, or may occupy, an area of land.

Distance between buildings - the measurement shall be at the narrowest point.

Double frontage lot - a lot with front and rear street frontage.

Driveway - a private access way, providing pedestrian and vehicular access between a public or private street and a parking area for a single residential unit of occupancy.

Dwelling - a house, apartment building or other building designed or used primarily for human habitation. The word "dwelling" shall not include lodging houses, boarding or rooming houses, bed and breakfast units, hotels, motels, tents, trailers or any structure designed or used for transient residence.

Dwelling attached (townhouse or *rowhouse*) - a dwelling containing at least

three dwelling units but not more than eight dwelling units which are attached side by side or are above the other, by the use of a common wall.

Dwelling, congregate (dormitory style) - a building having up to 12 sleeping rooms without individual cooking facilities to house individuals whose activities are directly related to an organizational headquarters campus. [*Ord. 99005*]

Dwelling, multiple family - a dwelling containing three or more dwelling units which may be separated horizontally and/or vertically. The individual dwelling units may or may not be in separate ownership, however, the land shall be in single ownership or in common ownership.

Dwelling, single family, detached - a detached single dwelling designed for or occupied exclusively by one family.

Dwelling single family semi detached - a dwelling containing two dwelling units which are attached side by side by the use of a common wall.

Dwelling, two family, detached (duplex) - a dwelling containing two dwelling units, one of which is located above the other.

Dwelling, two family, semi detached - a building used by two families, with one dwelling unit arranged over the other, having one side yard, and one party wall in common with another building.

Dwelling, multi family - includes two-family detached dwellings, two-family semi-detached dwellings, single family dwellings converted to more than one unit and single family semi-detached dwellings.

Dwelling unit - one or more rooms providing living and sanitary facilities for one occupancy group, including equipment for cooking or provisions for same.

Essential services - the erection, construction, alternation, or maintenance, by public utilities or municipal or other governmental agencies or private corporations under contract to a municipality, of gas, electrical, telephone, steam or water transmission or distribution systems, sewage disposal systems, and mail delivery facilities, including buildings, enclosures, wells, pumping stations, storage facilities, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic light signals, mail boxes, hydrants, and other similar equipment and accessories and services in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal government or other governmental agencies or private corporations under contract to a municipality including firehouses or fire companies and emergency services under agreement with the municipality or for the public health or safety or general welfare. Essential services does not include schools. Municipal stormwater facilities, whether on-premises or off-premises, shall be considered essential services. [*Ord. 00076*]

Essential services building - a predominantly essential services facility intended for human habitation.

Essential services structure - an exclusively essential services facility not intended for human habitation.

Family - one or more persons occupying a dwelling unit and living as a single housekeeping unit.

Floodplain - all definitions relating to the Floodplain zoning district are contained

in Part 14 hereof and are incorporated herein by reference.

Floor area - the total floor area of the dwelling unit actually used for habitation. It shall not include unfinished cellars, storage attics, porches, garages and the like.

Game room - an establishment with two or more mechanical or electronic amusement devices. Mechanical or electronic amusement devices shall be defined as machines designed for recreation and entertainment and shall include, but not be limited to, pinball machines, electronic video games, pool tables and other amusement machines. Any other use that includes a game room shall, in addition to all other provisions of this Chapter, comply with all zoning provisions relating to a game room.

Garage - a building, structure, or any part thereof in which one or more motor vehicles are customarily housed, kept, or repaired. Garages are classed as "private garages" or "public garages."

Private garage - a garage used only as an accessory to a dwelling by the owners or occupiers of the dwelling and located on the same lot as the dwelling. No more than one commercial vehicle may be stored therein, and such vehicle shall be of a size equal to or less than one ton and owned or operated by a person residing on the premises.

Public garage - any garage not included within the definition of a "private garage."

Headquarters - location of centralized administration and related activities of an organization. [*Ord. 99005*]

Highway access points - the measurement shall be extended from the termination of one curb cut to the establishment of an adjacent curb cut.

Home occupation - as described in §27-1204 hereof.

Home business - as described in §27-1204 hereof.

Hotel and motel - a building containing rooms intended or designed to be used or which are used, rented or hired out to be occupied or are occupied for sleeping purposes by guests and where only a general kitchen and dining room are provided within the building as an accessory use. Hotels and motels are used more in a transient nature and shall exclude those uses defined as bed and breakfast inns and boarding houses elsewhere herein.

Kennel, commercial - a business offering housing or boarding of domestic animals and which is operated for a profit.

Land areas - the extent of surface contained within the boundaries or extremities of land.

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

Landscape buffer strip -

A. Strip of land 20 feet wide including a combination of the following elements: deciduous trees, ground cover, evergreen trees, evergreen shrubs, vines, mulched areas or other approved materials. For every 100 lineal feet of the landscape buffer strip the following minimum planting materials shall be provided

as shown on the sketch appended to this page:

(1) Three deciduous trees.

(2) Six evergreen trees.

(3) Six evergreen shrubs.

B. At a minimum:

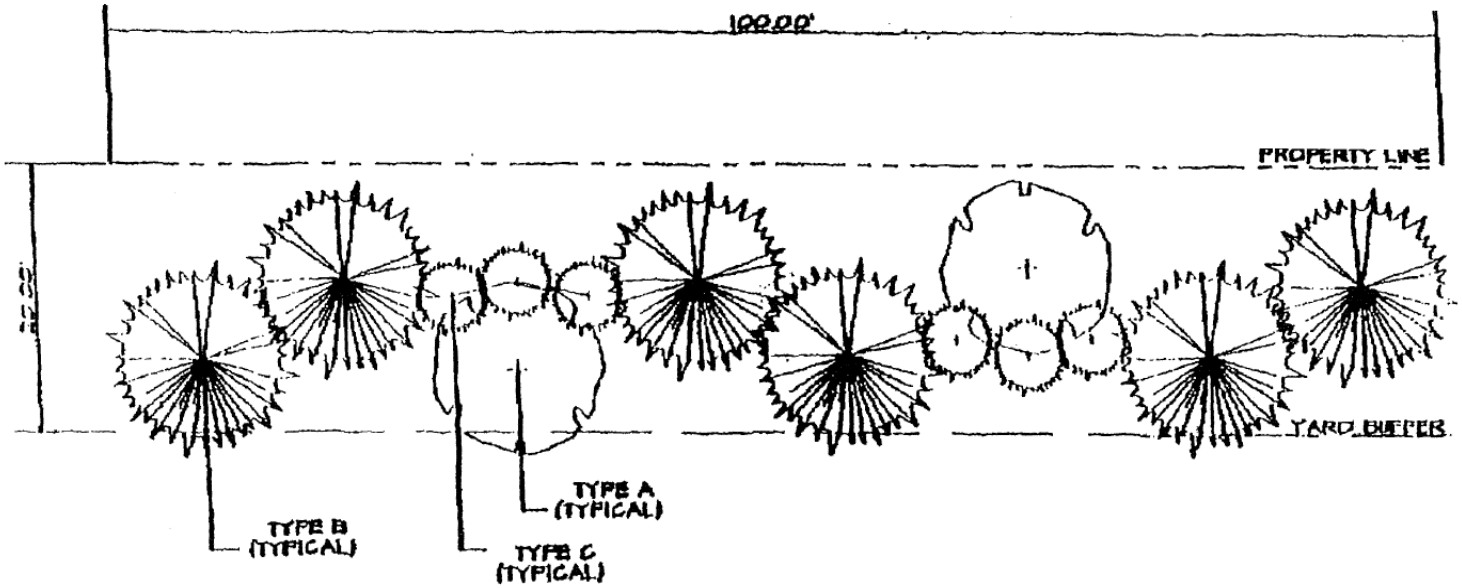
(1) Deciduous trees shall be 2-inch caliper measured 4 feet above the finished grade

(2) Evergreen trees shall be 6 feet in height above the finished grade.

(3) Evergreen shrubs shall be 3 feet in height above the finished grade Plant material shall be typical of their species and variety, have normal growth habits, well developed branches, dense foliation, and vigorous, fibrous root systems. They shall have been grown under climatic conditions similar to those in the locality of their installation as a landscape buffer strip. Any plant material which dies shall be replaced.

[*Ord. 99005*]

C. A landscape buffer strip shall also include and be maintained with such other planting materials and in such form to be consistent with the SWMO [Chapter 17]. [*Ord. 00076*]



PLANTING PLAN

TYPE A - DECIDUOUS TREE
TYPE B - EVERGREEN TREE
TYPE C - EVERGREEN SHRUB

TYPICAL SCREEN PLANTING

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 and having a frontage on a dedicated street or road.

Lot area - the area of a horizontal plane bounded by the vertical planes within the front, side and rear lot lines. For the purposes of calculating the minimum lot area necessary to comply with the requirements of this Chapter, any area within a street or other transportation right-of-way shall be excluded from such calculation.

Lot coverage - a building of a lot covered or occupied by structures. For the purpose of computation, building coverage excludes fences, free standing walls, retaining walls, playground equipment, temporary wading pools, cornices, eaves, gutters, stoops, balconies, fire escapes, SWMO [Chapter 17] facilities and unenclosed steps. [*Ord. 00076*]

Lot depth - the average distance between the street ultimate right-of-way and the rear lot line, measured perpendicular or radial to the ultimate right-of-way.

Lot width - the required distance between the side lot lines. When a lot abuts on a curved street, the width shall be determined by utilizing the arc distance of the ultimate right-of-way.

Massage establishment - see §27-1212 hereof.

Master development plan - a conceptual plan for the potential development of a lot including the following specifications:

A. Lot boundaries, any proposed lot boundaries, existing uses of the lot and of adjacent lots, and identification of adjacent landowners.

B. Location of development within the Borough and adjacent municipalities.

C. North point, scale and date.

D. Streets on and adjacent to the lot.

E. Significant existing and proposed topographical and physical features.

F. Potential size and location of proposed structures.

G. Identification of generalized land uses.

H. Potential lot configuration.

I. Proposed landscaping and buffering plan.

J. Proposed interior vehicular layout and parking lot configurations.

K. Proposed interior circulation plan for vehicular and pedestrian traffic.

L. Proposed SWMO [Chapter 17] facilities. [*Ord. 00076*]

M. Statement that the proposed use will not have a substantial adverse effect upon congestion of streets and highways or upon traffic levels of service or any hazards arising therefrom. The Borough may require the applicant to submit a traffic study prepared by a qualified traffic engineer to satisfy this requirement. [*Ord. 00076*]

N. The master development plan shall be submitted and reviewed in the same manner as a sketch plan under the Borough Subdivision and Land Development Ordinance. [Chapter 22] The applicant shall submit an update of the master development plan every 5 years, at a minimum, unless the applicant indicates that there are no changes from the most recent previously submitted master develop-

ment plan. [*Ord. 00076*]

[*Ord. 99005*]

Maximum impervious surface - the measurement of surface that contains impervious area. Impervious area shall include surfaces which prevent the infiltration of water into the ground. All structures, buildings, parking areas, driveways, roads, streets, sidewalks, decks, and any areas of concrete, asphalt, stone and other compacted soil shall be considered impervious surface if they prevent infiltration. [*Ord. 00076*]

Mean grade (mean height) - as used herein shall be formulated from the average ground level at all corners of a building.

Minimum lot area - the minimum allowable area computed by the area of a horizontal plane bounded by the vertical planes within the front, side and rear lot lines. For the purposes of calculating the minimum lot area necessary to comply with the requirements of this Chapter, any area within a street or other transportation right-of-way shall be excluded from such calculation.

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.

Mobile home park - a parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of a single mobile home.

Nonconforming lot - see Part 4 hereof.

Nonconforming structure - see Part 4 hereof.

Nonconforming use - see Part 4 hereof.

Nondomesticated animals - any ape, including chimpanzee, gibbon, gorilla, orangutan, or siamang; baboon, bear, bison, bobcat, cheetah, crocodile, alligator, coyote, deer, including all members of the deer family such as elk, antelope and moose, elephant, ferret, fox, hippopotamus, hyena, jaguar, leopard, lion, lynx, monkey, ostrich, puma, also known as cougar, mountain lion or panther, rhinoceros, a snake which is poisonous or nonindigenous, or any constrictor snake, snow leopard, tiger, wolf, or other animal that is wild, ferocious, or vicious by nature, habit, disposition or character.

Open space - an area that is intended to provide light and air, and is designed for either environmental, scenic, or recreational purposes. Open space may include, but is not limited to, lawns, decorative plantings, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas and water courses. Open space shall not be deemed to include driveways, parking lots, or other surfaces designed or intended for vehicular travel or parking. Open space may include SWMO [Chapter 17] facilities. [*Ord. 00076*]

Organization - a for-profit or not-for-profit corporation, partnership, or other entity established for and holding itself out to the public as accomplishing a specific charitable purpose. [*Ord. 99005*]

Organizational headquarters - one or more buildings that have facilities related to

the centralized administration and activities of an organization that may include:

A. All types of dwellings; provided, however, that any such dwelling shall not be occupied by the same person or persons or family, for more than 6 consecutive months. This duration limit shall not apply to one dwelling unit at the organizational headquarters campus if such unit is occupied by a full-time staff person (and, if applicable, occupied by his or her family) employed by the organization.

B. Offices.

C. Educational, training, and group retreat facilities for use by the organization or by an entity having a charitable mission or purpose.

D. Public and private park and recreation areas.

[*Ord. 99003*]

Outdoor advertising business - provision of outdoor displays off-premises or display space on a lease or rental basis only.

Outcall service activity - see §27-1212 hereof.

Principal building - a building in or on which is conducted the principal use of the lot on which such building is located. All other buildings on the same lot (incidental or supplemental thereto) and permitted under this Chapter shall be considered accessory buildings.

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

Research and development facility - a use involving design conception and prototype construction of items directly related to an organization's stated mission or purpose. [*Ord. 99005*]

Retail or *wholesale sales* or *rental of goods and services* - includes such uses as variety stores, apparel stores, drug stores, grocery stores, eating establishments, antique shops, music shops, sporting good stores, and book, stationery, magazine, candy and tobacco shops; and, personal service shop or agency such as tailor, dry cleaning outlet only, jewelry, laundry, etc.

Retreat facility - a combination of rooms in which a group of persons not larger than 24 may be accommodated from 1 to 3 days in a self-sufficient setting that provides kitchen, bathroom, meeting and sleeping facilities. [*Ord. 99005*]

Right-of-way - the total width of any land reserved or dedicated or offered for dedication as a street, road or other public or semi-public purposes.

SALDO - Chapter 22 of the Borough of Akron Code of Ordinances as it currently exists and as it may be hereinafter amended. [*Ord. 00076*]

Satellite antennas - an exterior dish or disk constituting a device for converting electrical currents into electromagnetic waves or vice versa.

Self-service storage facility - a building or group of buildings that contains individual, compartmentalized, and controlled access stalls or lockers for the storage of customer's goods or wares.

Setback line - a line defining the minimum required distance within a lot line and parallel to the street ultimate right-of-way line and side and rear lot lines, which is

designated the minimum location of buildings for structures.

Sexual encounter center - see §27-1212 hereof.

Sight distance ("clear-sight triangle") - the unimpeded view which a vehicle operator has along the street he is traveling or the street he is entering or crossing, such distance related to driver reaction time and posted speed limits, and assuming the operator's eye level is between 3 feet, 6 inches and 10 feet above the pavement (see also §27-1234). [*Ord. 00057*]

Signs - any advertisement, announcement, direction or communication produced in whole or in part by constructing, erecting, affixing or placing of a structure on any land or on any other structure, or produced by painting on or pasting, or placing any printed, lettered, pictured, figured or colored material on any building, structure, or surface, including lettering or other identification which is a part of the architectural design of a building.

Specified anatomical areas - see §27-1212 hereof.

Specified sexual activities - see §27-1212 hereof.

Street - shall include but not be limited to the words "road," "highway," "alley," and "thoroughfare."

Street line - the measurement shall extend perpendicular to and equi-distant from the ultimate right-of-way line, unless otherwise dedicated.

Structure - any manmade object having an ascertainable stationary location on or in land or water, whether or not such object is affixed to the land. Such term shall not include fountains, birdboxes, mailboxes and other similar objects.

Structure - accessory - a subordinate structure detached but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.

Structure - principal - a structure or where the context so indicates a group of structures in or on which is conducted the principal use of the lot on which such structure is located.

Stormwater facilities - facilities that need to be constructed in order for the use or structure to meet the requirements of the SWMO [Chapter 17]. [*Ord. 00076*]

SWMO - Chapter 17 of the Borough of Akron Code of Ordinances as it currently exists and as it may be hereinafter amended. [*Ord. 00076*]

SWMO facilities - facilities erected and maintained pursuant to the provisions of the SWMO [Chapter 17]. [*Ord. 00076*]

Temporary quarters - a temporary single family dwelling unit located within a previously larger single-family dwelling unit and being an integral part of said other single-family dwelling unit wherein are located facilities for the temporary dwelling, on a nonprofit basis, for the elderly, infirm or others with limitations on their physical or mental abilities. Those dwellings in the temporary unit dwell autonomous to the dwelling in the primary unit, but are cared for and looked after by the persons dwelling in the primary dwelling unit.

Use - the purpose or activity for which a building, structure, or land is occupied or maintained.

Use accessory - a use customarily incidental and subordinate to the principal use

of a building, or to the principal use of the land and located on the same lot with such principal use or, principal building.

Use principal - the main or primary purpose for which any land, structure, building or use thereof is designated, arranged or intended or for which they may be occupied or maintained under this Chapter. All other uses on the same lot (incidental or supplementary thereto) and permitted under this Chapter shall be accessory uses.

Yard - the unobstructed open space around a building. Porches shall be considered a part of the building. Gutters and/or cornices shall not be considered an infringement of the yard requirements. Overhanging eaves shall be considered an infringement of the yard requirements.

Front yard - the required open space between a building and the front street line and extending the full width of the lot.

Rear yard - the required open space between a building and the rear property or street line, whichever is the closer to the building, and extending the full width of the lot.

Side yard - the required open space between a building and the side property line and extending the full depth of the lot.

(*Ord. 12-8-97A*, 12/8/1997, §502; as amended by *Ord. 99005*, 7/12/1999, §1.A, .B; by *Ord. 00057*, 4/11/2011, §I; and by *Ord. 00076*, 4/14/2014, §§10, 11)

Part 6

Zoning Map and District Applications

§27-601. Zoning District Controls.

It is the purpose of these controls to provide particular regulations for each of the zoning districts within the Borough and to maintain certain standards for development with those districts. Each zoning district shall contain controls affecting basic land utilization, building and area dimensions, the conduct of uses on the property and the design of auxiliary facilities.

(*Ord. 12-8-97A*, 12/8/1997, §601)

§27-602. Extent of Applicability.

The controls imposed for each zoning district shall be limited in application to the area so indicated by the Zoning Map.

(*Ord. 12-8-97A*, 12/8/1997, §602)

§27-603. Classes of Districts.

For the purpose of this Chapter, the Borough of Akron is hereby divided into six classes of districts which shall be designated as follows:

A. R-1 Residential - 1.

B. R-2 Residential - 2.

C. R-3 Residential - 3.

D. C-1 Commercial.

E. C-M Commercial Mixed.

F. FP Floodplain.

(*Ord. 12-8-97A*, 12/8/1997, §603)

§27-604. Official Zoning Map.

1. The boundaries of the zoning districts shall be as shown on the Official Map which shall be located in the office of the Borough Zoning Officer. Said map and all notations, references and data shown thereon are hereby incorporated by reference into this Chapter and shall be as much a part of this Chapter as if all were fully described herein.

2. The Official Zoning Map shall be so labeled, and identified by the signature of the President of the Borough Council, attested by the Borough Secretary, and bear the seal of the Borough under the following words:

> "This is to certify that the following ( ) sheets comprise the Official Zoning Map of Akron Borough, Lancaster County, Pennsylvania, adopted this ( ) day of ( ), 199_."

(*Ord. 12-8-97A*, 12/8/1997, §604)

§27-605. Interpretation of Zoning Map.

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

A. Boundaries indicated as approximately following the center lines of streets, highways or alleys, or extensions thereof, or parallel or perpendicular to such centerlines shall be construed as such.

B. Boundaries indicated as approximately following plotted lot lines, or extensions thereof, or parallel or perpendicular to such lot lines, shall be construed as such unless a lot line is clearly plotted and the boundary line is clearly different.

C. Boundaries indicated as approximately following Borough boundaries shall be construed as such.

D. Distances specifically indicated shall be so construed. Distances not specifically indicated shall be determined by the scale of the map.

E. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not indicated by paragraphs .A through .D above, the Zoning Officer, subject to appeal to the Zoning Hearing Board shall interpret the district boundaries.

F. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Chapter, the district in which lies the major portion of the lot may be extended a distance not to exceed 30 feet. Additional lesser extensions of said lots may be authorized by the Zoning Hearing Board as a special exception if it finds such extension involve the best use of the land.

(*Ord. 12-8-97A*, 12/8/1997, §605)

Part 7

Residential-1 (R-1)

§27-701. Purpose.

1. From the late 1950s to the present, the type of housing in the Borough changed substantially from that found in the central core of the Borough to that found in those areas other than the central core.

2. The primary type of housing previously was single-family detached dwellings on small lots. Such dwellings were constructed of wood or similar materials, with vary small yards.

3. That changed in the 1950s and continues to this day, so that almost all the construction of single-family detached dwellings has been on substantially larger lots (12,000 square feet or more) and a substantial number of those dwellings have been built of brick, stone or masonry and have significant setbacks and yards. The purpose of the R-1 District is to recognize the historical evolution of those types of dwellings in those areas and to preserve that legitimate dwelling type for future generations. The Borough has made adequate provisions for other types of dwellings in its other districts and believes that the preservation of single-family detached dwellings on what are relatively large lots (although quite small compared to surrounding municipalities and surrounding townships) is a legitimate community development objective of the Borough that shall be pursued.

4. To this end the Borough has created the R-1 zoning district where the only permitted residential use is single-family detached dwellings on larger lots (12,500 square feet or more) and only those other uses that encourage the open use of space so to . . . Additionally, businesses in these areas should be severally restricted so that they do not create any kind of intrusion on this legitimate residential usage.

(*Ord. 12-8-97A*, 12/8/1997, §701)

§27-702. Permitted Uses in the R-1 District.

1. Single-family detached dwellings.
2. Parks and playgrounds not operated for private profit.
3. Public or private golf courses.
4. Essential services structures.
5. Home occupations.
6. Accessory uses incidental to the above permitted uses.

(*Ord. 12-8-97A*, 12/8/1997, §702)

§27-703. Special Exception Uses.

1. Essential services building.
2. Schools - public or private elementary or secondary.
3. Church.

4. Bed and breakfast inns, subject to the provisions of §27-1202 hereof.
5. Temporary quarters.
6. Accessory uses incidental to the above special exception uses.

(*Ord. 12-8-97A*, 12/8/1997, §703)

§27-704. Height, Bulk, Setback and Area Regulations.

The following shall be the minimum height, bulk, setback and area regulations in the R-1 zoning district:

A. The following shall be the minimum lot area and distances for single-family detached dwellings in this District:

(1) *Minimum lot area*: 12,500 square feet.

(2) *Minimum lot width at the building setback line*: 100 feet.

(3) *Minimum lot depth*: 125 feet.

(4) *Front yard (building setback) minimum depth*:

(a) A building setback to establish a front yard for all buildings shall be a minimum of 25 feet from the street line.

(b) Except on Rothsville Road and Seventh Street (SR 272), if the block on which the site fronts is more than 50 percent developed at the time of enactment of this Chapter, the setback of the majority of the existing buildings on that block must be used, except in no case shall a setback line be less than 15 feet from the street line.

(5) *Side yard (building setback) minimum width*: each dwelling unit shall have two side yards (building setbacks), neither of which shall be less than 10 feet.

(6) *Rear yard (building setback) minimum depth*: 35 feet.

(7) *Maximum height*: 35 feet.

(8) *Maximum impervious surface*: 600.

B. The following shall be the minimum lot area and distances for all other permitted and special exception uses in the R-1 zoning district:

(1) *Minimum lot area*: 1 acre, except that bed and breakfast inns, where the minimum lot area shall be 12,500 square feet and in the case of Essential services, where the minimum lot area shall be only that necessary to perform the service in an expeditious and cost effective manner.

(2) All other height, bulk, setback and distance regulations shall be the same as provided for single-family detached dwellings in this district.

(*Ord. 12-8-97A*, 12/8/1997, §704)

Part 8

Residential-2 (R-2)

§27-801. Purpose.

1. The R-2 zoning district is the remainder of what was formerly zoned R-2 in the Borough and what has not been rezoned as R-1 and is not part of the new zoning district R-3.

2. The purpose of the R-2 zoning district is to provide a transition between the R-1 and the R-3, to reflect a different legitimate housing need, and to also reflect a different currently existing housing type.

3. The housing types in the R-2 District consist of mixtures of single-family detached and multi-family. The density however is much higher than in the R-1.

4. The Borough believes that the essential character of the R-2 District should be preserved by allowing single-family detached dwellings as of right, and other types of nondense residential uses as special exceptions. Lots should not have significant lot size requirements and setbacks should be significantly smaller then in the R-1, but because of the already built up nature of most of this area it is important that parking and similar issues be addressed. Again the primary purpose of the district is residential dwelling. Therefore, commercial uses should be restricted so to not impose an unnecessary burden on the residential uses. These community development objectives are legitimate and shall be implemented in the Borough.

(*Ord. 12-8-97A*, 12/8/1997, §801)

§27-802. Permitted Uses in the R-2 District.

1. Single-family detached dwellings.
2. Essential services structures.
3. Parks and playgrounds not operated for private profit.
4. Home occupations.
5. Accessory uses incidental to the above permitted uses.

(*Ord. 12-8-97A*, 12/8/1997, §802)

§27-803. Special Exception Uses.

1. Essential services building.
2. Schools - public or private elementary or secondary.
3. Church.
4. Bed and breakfast inns, subject to the provisions §27-1202 hereof.
5. Extension of an existing cemetery through land owned at the effective date of this Chapter.
6. Home businesses.
7. Conversion of a single-family detached dwelling to a two-family detached Dwelling.

8. Two-family detached dwelling.
9. Single-family semi-detached dwelling.
10. Family daycare home.
11. Temporary quarters.
12. Accessory uses incidental to the above special exception uses.

(*Ord. 12-8-97A*, 12/8/1997, §803)

§27-804. Conditional Uses.

Organizational headquarters Campus, subject to §27-1238.

(*Ord. 12-8-97A*, 12/8/1997; as amended by *Ord. 99005*, 7/12/1999, §1.C)

§27-805. Height, Bulk, Setback and Area Regulations.

The following shall be the minimum, height, bulk, setback and area regulations in the R-2 zoning district:

A. The following shall be the minimum lot area and distances for each single-family detached dwelling and each multi-family dwelling permitted in this district:

(1) *Minimum lot area*: 7,500 square feet for each dwelling.

(2) *Minimum lot width at the building setback line*:

(a) 75 feet for single-family detached dwellings.

(b) 50 feet for each two-family detached dwelling or single-family semi-detached dwelling or converted family dwelling.

(3) *Minimum lot depth*: 125 feet.

(4) *Front yard (building setback) minimum depth*:

(a) A building setback to establish a front yard for all buildings shall be a minimum of 25 feet from the street line.

(b) Except on Rothsville Road and Seventh Street (SR 272), if the block on which the site fronts is more than 509s developed at the time of enactment of this Chapter, the setback of the majority of the existing buildings on that block must be used, except in no case shall a setback line be less than 15 feet from the street line.

(5) Side yard minimum width: each single family dwelling unit shall have two side yards (building setbacks) and each multi-family dwelling shall have one side yard (building setback). No side yard (building setback) shall be less than 10 feet.

(6) *Rear yard (building setback) minimum depth*: 35 feet.

(7) *Maximum Height*: 35 feet.

(8) *Maximum impervious surface*: 60 percent.

B. The following shall be the minimum lot area and distances for each other permitted and special exception uses in the R-2 Zoning District:

(1) *Minimum lot area*: 1 acre, except that bed and breakfast inns, where the minimum lot area shall be 12,500 square feet and, in the case of essential Services, where the minimum lot area shall be only that necessary to perform

the service in an expeditious and cost effective manner.

(2) All other height, bulk, setback and distance regulations shall be the same as provided for single-family detached dwellings in this district.

(*Ord. 12-8-97A*, 12/8/1997, §804; as amended by *Ord. 99005*, 7/12/1999, §1.C)

Part 9

Residential-3 (R-3)

§27-901. Purpose.

The purpose of the R-3 District is to provide for high density residential uses (while retaining reviewability by the Zoning Hearing Board). The uses include mobile home parks, townhouses and apartment complexes. These and other uses currently exist in certain portions of the R-2 District in a less dense fashion than they are to be allowed in the R-3 District. The intrusion of commercial uses in the R-3 District is to be discouraged. These community development objectives are legitimate and shall be implemented in the Borough.

(*Ord. 12-8-97A*, 12/8/1997, §901)

§27-902. Permitted Uses in the R-3 District.

1. Single-family detached dwelling.
2. Essential services structures.
3. Parks and playgrounds not operated for private profit.
4. Home occupations.
5. Accessory uses incidental to the above permitted use.

(*Ord. 12-8-97A*, 12/8/1997, §902)

§27-903. Special Exception Uses.

1. Mobile home parks.
2. Attached dwellings.
3. Multiple family dwellings/apartments.
4. Family daycare home.
5. Single-family semi-detached dwellings.
6. Two-family detached dwellings.
7. Two-family semi-detached dwellings.
8. Conversion of a single-family, detached dwelling to a two-family detached dwelling.
9. Home businesses.
10. Temporary quarters.
11. Essential services building.
12. Accessory uses incidental to the above special exception uses.

(*Ord. 12-8-97A*, 12/8/1997, §903)

§27-904. Height, Bulk, Setback and Area Regulations.

1. The following shall be the minimum, height, bulk, setback and area regulations in the R-3 zoning district:

A. For uses permitted in the R-2 zoning district, the minimum height, bulk, setback, and area regulations of the R-2 zoning district shall apply.

B. For mobile home parks, the provisions of Part 13 of this Chapter shall apply.

C. (1) For attached dwellings, multi-family dwellings/multiple-family dwellings, and nonresidential units the following shall be the minimum height, bulk, setback and area regulations in the R-3 zoning district:

With Public Sewer and Public Water	**Minimum Lot Area (S.F.)**	**Minimum Lot Width**	**Minimum Side Yard**	**Minimum Rear Yard**
Two-Family Dwellings	4,000 (per dwelling)	25 ft	15 ft.	20 ft.
Semi-Detached Dwellings	6,000 (per dwelling)	25 ft	15 ft.	20 ft.
Other Multi-Family				
Dwellings				
Interior Units	3,000	25 ft.	0 ft.	20 ft.
Exterior Units	3,000	25 ft.	15 ft.	20 ft.
Multiple Family Dwellings	20,000* (*3,000 each unit)	100 ft.	25 ft.	20 ft.
Nonresidential Units	12,500	80 ft.	20 ft.	30 ft.

(2) The front yard (building setback) shall be the greater of the equivalent to one-half the width of the legal right-of-way of the street or streets on which the lot abuts or 25 feet.

(a) Except on Rothsville Road and Seventh Street (SR 272), if the block on which the site fronts is more than 50 percent developed at the time of enactment of this Chapter, the setback of the majority of the existing buildings on that block must be used, except in no case shall a setback line be less than 15 feet from the street line.

(3) As provided in the previous table, the minimum lot area for an apartment building is 20,000 square feet. The maximum density for an apartment building shall be based on a minimum of 3,000 square feet of lot area for each one-bedroom apartment unit and an additional 500 square feet of lot area for each additional bedroom.

(4) No less than three nor more than eight multi-family dwellings units may be contained within one multi-family dwelling.

(5) The following requirements shall apply to all buildings containing more than one dwelling unit and located on the same lot.

(a) *Minimum Isolation Distances Between Buildings*.

1) *Side to side*: 30 ft.

2) *Side to rear*: 35 ft.

3) *Side to front*: 50 ft.

4) *Front to front*: 80 ft.

5) *Front to rear*: 80 ft.

6) *Rear to rear*: 80 ft.

7) *Corner to corner*: 30 ft.

(b) In the event there is more than one unit, the setback of the units must be such that the second unit is at least 2 feet set back further from the first unit and if there are four or more units, every other unit must be set back at least 2 feet further from the minimum setback line and from the other alternative units (in order to present a staggered look).

(6) All parking areas which are shared by residents of more than one apartment unit or multi-family dwelling shall be located a minimum of 15 feet from any apartment or multi-family dwelling and 25 feet from all properties which contain a single-family detached dwelling or a single-family semidetached dwelling.

(7) *Height Requirements*. All principal structures shall have a maximum height of 35 feet. All accessory structures shall have a maximum height of 15 feet.

(8) *Maximum Impervious Surface*. 60 percent.

2. All other height, bulk, setback and distance regulations shall be the same as provided for single-family detached dwellings in the R-2 district.

(*Ord. 12-8-97A*, 12/8/1997, §904)

Part 10

Commercial - C-1

§27-1001. Purpose.

1. The Borough of Akron, being a community created well over 100 years ago, significantly prior to zoning, found the evolution of its industrial uses dependent more on foot and rail traffic than anything else.

2. Accordingly, in 1996, there are at most three operating industrial establishments left in the Borough, none of which are of any size, and all which are scattered at locations and in buildings where similar uses existed for well over 40 years.

3. Because of the extreme density of residential development in the Borough and the lack of land for any size of industrial use, the Borough believes it would be ill-advised to allow major industrial uses to be permitted. The Borough with its history of experiencing some industrial uses in the middle of residential districts has found that these existing industrial uses in residential areas have caused significant problems. There is no other land on which to build any kind of substantial industrial use. Additionally, any substantial industrial use would significantly intrude upon the residential bedroom community character of the Borough.

4. Accordingly, the Borough has eliminated the very small Industrial District from its zoning (all the land in that district is now occupied by commercial uses) but will allow the provision of light industry of a limited nature within its C-1 District. The C-1 District's primary purpose, however, is for commercial development along the transportation corridor of Route 272.

5. Towards that end, residential development in that area should be discouraged and the inter-mixing of residential, commercial, and industrial should be prevented to the greatest extent possible.

6. Accordingly, the Borough has re-zoned a significant portion of both sides of Route 272 for commercial uses so to encourage those uses along that transportation corridor where there can be access to them by the traveling public from adjacent municipalities. These community development objectives are legitimate and shall be implemented in the Borough.

(*Ord. 12-8-97A*, 12/8/1997, §1001)

§27-1002. Permitted Uses in the C-1 District.

1. Municipal building.
2. Essential services structures.
3. Parks and playgrounds not operated for private profit.
4. Accessory uses incidental to the above permitted uses.

(*Ord. 12-8-97A*, 12/8/1997, §1002)

§27-1003. Special Exception Uses.

1. Funeral homes.

2. Beauty shops and barbers.

3. Offices.

4. Health services, including medical or dental clinic.

5. Financial institutions (including banks).

6. Business or professional offices.

7. Parking lot.

8. The process of manufacture, assembly or treatment which is clearly incidental to a retail business conducted on the premises.

9. Restaurant and taverns, including restaurants with drive-in facilities.

10. Hotels and motels.

11. Daycare businesses.

12. Bed and breakfast inns, subject to the provisions of §27-1202, hereof.

13. Nightclubs.

14. Kennels.

15. Family daycare home.

16. Retail and wholesale sales or rental of goods and services.

17. Greenhouses.

18. Game rooms, subject to the provisions of §27-1207, hereof.

19. Self-service storage facility.

20. Outdoor advertising business.

21. Bakeries.

22. Adult entertainment establishments, subject to the provisions of §27-1212 hereof and other applicable provisions.

23. Essential services building.

24. Accessory uses incidental to the above special exception uses.

(*Ord. 12-8-97A*, 12/8/1997, §1003)

§27-1004. Height, Bulk, Setback and Area Regulations.

The following shall be the minimum, height, bulk, setback and area regulations in the C-1 zoning district:

A. *Dwelling Units*. All currently existing buildings intended for residential use in whole or in part shall comply with the regulations as set forth heretofore for Residential District R2 (or if not found in R-2, than in R-3).

B. *Other Uses Exclusive of Dwelling Units*.

(1) *Maximum Height*. No building shall be erected to a height in excess of 35 feet, unless authorized as a special exception.

(2) *Lot Area*. No minimum lot area requirement, subject to the condition that sufficient open space is to be provided on the lot for the installation of all required open space and facilities.

(3) *Minimum Lot Width*. 25 feet at the street line.

(4) *Yards (Building Setback)*. Yards (building setback) of the following minimum sizes shall be provided. The yards (building setback), if appropriately marked, may be used for the purposes of meeting off-street parking and loading requirements.

(a) *Front Yard (Building Setback) Minimum Depth*.

1) A building setback to establish a front yard for all buildings shall be a minimum of 25 feet from the street line.

(b) *Side Yard (Building Setback) Minimum Width*. The minimum side yard (building setback) shall be 6 feet except when adjacent to a residential district, in which case the side yard (building setback) shall be the same as the most restrictive side yard (building setback) regulations in that residential district.

(c) *Rear Yard (Building Setback) Minimum Depth*. There shall be a rear yard (building setback) of a minimum of 20 feet.

(5) Maximum impervious surface.

(*Ord. 12-8-97A*, 12/8/1997, §1004)

§27-1005. Screening.

1. Where the sides adjoin a residential use or a residential zoning district all commercial, industrial and nonresidential uses shall be screened from all rear property lines and side property lines by a planting area.

2. In order for the Zoning Officer to determine compliance with the requirements of this Section, a plan must be submitted showing the proposed design and make up of the landscape screen. Any screen shall be designed so as to not restrict clear site triangles for vehicles.

3. A screen may be composed of a combination of shrubs, trees, or earthen berms. The shrubs shall have a minimum initial height of 3 feet measured from parking surface level at the time of planting. Trees shall have a minimum height of 6 feet from parking surface level and a trunk caliper of at least 1½ inches at time of planting. Deciduous trees, where allowed, shall have a height of at least 10 feet from parking surface level. Earthen berms, if any, shall have a minimum height of 1 foot.

4. The plants selected for use in the landscape screen shall be suited for such plantings and be arranged in such a manner as to provide an effective visual barrier within 2 years of planting, and shall be reasonably approved in advance by the Zoning Officer. The Borough encourages naturalistic plant designs which enhance the visual effect of the landscape along public streets.

(*Ord. 12-8-97A*, 12/8/1997, §1005)

§27-1006. Planting Strips.

1. All parking lots with more than 10 parking spaces shall be separated from all street right-of-ways by a planting strip. All planting strips as described in this section shall be a minimum of 5 feet wide.

2. Each planting strip shall be planted in grass, shrubbery, trees, or other plant material. In no case shall these areas be paved or covered by an impervious surface. Planting strips shall only be broken by approved entrances or exits. Accessory buildings

shall not be permitted within a planting strip. Planting strips shall be designed so as to not restrict clear site triangles for vehicles.

(*Ord. 12-8-97A*, 12/8/1997, §1006)

Part 11

Commercial Mixed - C-M

§27-1101. Purpose.

1. The purpose of this zoning district is to reflect the historical core of the Borough along Main Street, where uses have evolved to a mixture of very light commercial and higher density residential. This area provides for higher density residential uses than those in the R-1 District (although not as dense as in the R-3 District), but encourages the mixtures of such residential uses and smaller scale commercial uses.

2. This mixed density area is not intended to be or consist of substantially all commercial uses, but is intended to be intermixed where nonintrusive commercial uses can live in peace with higher density residential uses. To that end the commercial uses are not as intense as those allowed in the C-1 District. Also to that end, the residential uses are not as restrictive as that provided in the R-1 and R-2 Districts.

3. The intent is to reserve the old (pre-twentieth century) "Main Street character," as it has been the essential core of the Borough.

4. The housing types in this section of the Borough are generally those built pre-late 1950s and consist of the more traditional small lots, small yards, large size residential dwellings, built of siding or masonry. The use of these types of structures and the conversion of some to multi-families or co-usage as commercial and residential, is not to be discouraged where safety, parking and aesthetics allow. These Community development objectives are legitimate and shall be implemented in the Borough.

(*Ord. 12-8-97A*, 12/8/1997, §1101)

§27-1102. Permitted Uses in the C-M District.

1. Single-family detached dwellings.
2. Essential services structures.
3. Parks and playgrounds not operated for private profit.
4. Home occupations.
5. Accessory uses incidental to the above permitted uses.

(*Ord. 12-8-97A*, 12/8/1997, §1102)

§27-1103. Special Exception Uses.

1. Municipal building or use, firehouse, public utility service structure and building.
2. Schools - public elementary or secondary.
3. Church.
4. Extension of an existing cemetery through land owned at the effective date of this Chapter.
5. Home businesses.

6. Conversion of a single-family detached dwelling to a two-family detached dwelling.

7. Two-family detached dwelling.

8. Single-family semi-detached dwelling.

9. Temporary quarters.

10. Funeral homes.

11. Beauty shops and barbers.

12. Offices.

13. Health services, including medical or dental clinic.

14. Retail or wholesale sales or rental of goods and services, except bakeries and adult entertainment establishments.

15. Financial institutions (including banks).

16. Business or professional offices.

17. Parking lot.

18. Daycare businesses.

19. Family daycare home.

20. The process of manufacture, assembly or treatment which is clearly incidental to a retail business conducted on the premises.

21. A restaurant with no drive-through facilities.

22. Any lot in the C-M District used at the time of adoption of this Chapter for commercial purposes can be continued to be used for commercial purposes as either authorized in the C-1 or C-M zoning district if the use meets all the requirements of one or the other of the C-1 or C-M zoning district, until such time as the use changes, when it shall only then comply with the C-M use requirements.

23. Bed and breakfast inns, subject to the provisions of §27-1202, hereof.

24. Boarding houses.

25. Essential services building.

26. Accessory uses incidental to the above special exception uses.

(*Ord. 12-8-97A*, 12/8/1997, §1103)

§27-1104. Height, Bulk, Setback and Area Regulations.

The following shall be the minimum, height, bulk, setback and area regulations in the C-M zoning district:

A. *Dwelling Units*. All buildings intended for residential use in whole or in part shall comply with the regulations as set forth heretofore for Residential Districts R-2 (or if not found in R-2, then in R-3).

B. *Other Uses Exclusive of Dwelling Units*.

(1) *Maximum Height*. No building shall be erected to a height in excess of 35 feet.

(2) *Lot Area*. No minimum lot area requirement, subject to the condition that sufficient open space is to be provided on the lot for the installation of all

required open space, parking, and facilities.

(3) *Minimum Lot Width*. 25 feet at the street line.

(4) *Yards (Building Setback)*. Yards (building setback) of the following minimum sizes shall be provided. The yards (building setback), if appropriately marked, may be used for the purposes of meeting off-street parking and loading requirements.

(a) *Front Yard (Building Setback) Minimum Depth*.

1) A building setback to establish a front yard for all buildings shall be a minimum of 25 feet from the street line.

2) Except for on Rothsville Road and Seventh Street (SR 272), if the block on which the site fronts is more than 50 percent developed at the time of enactment of this Chapter, the setback of the majority of the existing buildings on that block must be used, except in no case shall a setback line be less than 15 feet from the street line.

(b) *Side Yard (Building Setback) Minimum Width*. The minimum side yard (building setback) shall be 6 feet except when adjacent to a residential district, in which case the side yard (building setback) shall be the same as the most restrictive side yard (building setback) regulations in that residential district.

(c) *Rear Yard (Building Setback) Minimum Depth*. There shall be a rear yard (building setback) of a minimum of 20 feet.

C. *Mixed Dwelling and Other Uses*. Such uses shall comply with the most restrictive requirements of either paragraph B(a)1) or 2) above.

(*Ord. 12-8-97A*, 12/8/1997, §1104)

Part 12

Supplemental District Regulations

§27-1201. Applicability.

All other provisions of this Chapter and uses and structures governed thereby shall be subject to such exceptions, additions, restrictions, limitations or modifications as herein provided by the following supplemental regulations.

(*Ord. 12-8-97A*, 12/8/1997, §1201)

§27-1202. Bed and Breakfast Inns.

Bed and breakfast inns are permitted as special exceptions in all zoning districts in the Borough, but shall be subject to all the following criteria (in addition to all other applicable criteria for single family detached residential uses in each district).

A. There shall be a minimum of two off-street parking spaces for the owner/occupier plus one additional off street parking space for each bed and breakfast unit and one additional off street parking space for each full or part time employee which are present at any one time and who are not residing in the building.

B. All bed and breakfast inns shall be owner occupied. The operator however can be a family member, even if not an occupant.

C. Not more than one full time employee not a resident therein shall be permitted for each bed and breakfast inn. "Full time" shall be defined for this purpose as an employee employed for a minimum of 40 hours in any work week.

D. No bed and breakfast inn in any residential district shall contain more than three units (exclusive of the residence). No bed and breakfast inn shall contain more than five units (exclusive of the residence) in the C-1 and the C-M Districts.

E. Each bed and breakfast inn shall keep a register of all guests.

F. The maximum stay shall be 1 week.

G. Breakfast only shall be served and no meals shall be served to anyone other than occupants.

H. There shall be no cooking facilities in any unit.

I. The bed and breakfast use shall be conducted in the principal building only.

J. The billing shall be on a nightly basis only.

K. Each bed and breakfast inn shall contain a minimum of two full baths for each three units (for this purpose only, a unit includes the residence facilities).

L. The residence unit and each bed and breakfast unit shall only be allowed in structures where there are least 700 square feet of used floor area for each such unit and for the residence.

M. The bed and breakfast inn's parking and public facilities shall be adequately screened so that they cannot be seen from the neighbors in any side or

rear lots.

N. Signage shall be as set forth in §27-1237 hereof.

(*Ord. 12-8-97A*, 12/8/1997, §1202)

§27-1203. Daycare Centers.

1. *Child Daycare*. Care in lieu of parental care given for part of a 24-hour day to children away from their own homes.

2. *Family Daycare Home*. A home in which child daycare is provided at any one time of the day for four through six children who are not relatives of the caregiver.

3. *Daycare Business*. Is a business where child daycare is provided in a commercial setting to seven or more children who are not relatives of the caregiver.

4. A daycare business facility must be located in either the C-1 or C-M zoning districts.

5. Child daycare provided to three or fewer children away from their own homes where there is no employee who is not a resident of the facility shall not be considered regulated by this Chapter.

6. Family daycare home shall be considered a home business under §27-1204 hereof.

7. The following additional criteria shall apply to all family daycare homes:

A. Such family daycare home must be in a single-family detached dwelling with at least 1,500 square feet area of living area (excluding garages, attics, unfinished basements, etc.).

B. The facility must have an approved valid State registration certificate. Proof of State registration renewal must be supplied to the Borough every year.

C. Any external evidence of such use shall be limited to one nonluminated sign, subject to the sign regulations contained in §27-1204 hereof.

D. The facility shall not be conducted in an accessory building.

E. The person primary responsible for the family daycare home shall be a full-time resident in that dwelling.

F. No more than one person not in residence in the dwelling shall be employed in the family daycare home.

G. A fence, with a minimum height of 4 feet, shall physically contain the children within an outdoor play area.

H. Natural or physical barriers may be used in place of fencing so long as such barriers functionally contain children.

8. The following criteria additionally apply to daycare business facilities:

A. The facility must have an approved and currently valid State registration certificate. Proof of State registration renewal must be supplied to the Borough every year.

B. A fence with a minimum height of 4 feet shall physically contain the children within the outdoor play area. Natural or physical barriers may be used in place of fencing so long as such barrier's function might contain children.

C. If a facility has access to streets of different classification, access shall be provided using the street of lesser functional classification.

D. Play equipment shall be located at least 10 feet from any abutting property line.

E. All pedestrian passways shall be adequately lit for safety if utilized during non-daylight hours. Specific areas requiring lighting are entrance ways, pedestrian access to outdoor play areas, sidewalks, drop off areas, merchandise delivery areas and all parking lots. Such lighting shall not produce objectional glare on adjacent properties.

9. In all other zoning districts daycare businesses may also be permitted as accessory uses to churches, schools, and recreation centers only by special exception. Accessory daycare businesses must comply with all other requirements for daycare business centers. In addition, evidence must be submitted to document that adequate indoor space, outdoor play space, and safe vehicular access are provided.

(*Ord. 12-8-97A*, 12/8/1997, §1203)

§27-1204. Home Occupations and Home Businesses.

1. *Background*. The Borough recognizes the need to establish regulations pertaining to home-based occupations and businesses that have arisen as a result of the increased need for the diversity of income to help offset the rising cost of living. The Borough also recognizes the potential benefits to the local community which could be realized by those seeking services or goods supplied through home occupations. However, these positive aspects must be weighed against the potential impacts of such uses on the character of the neighborhoods and health and safety issues.

2. *Purpose*. It is the intent of this Section to establish regulations which will permit home occupations and home businesses in a manner which will preserve the peace, quiet, and tranquility of residential neighborhoods and to ensure the compatibility of such uses with other uses permitted within the same zoning districts.

3. *Requirements for Home Occupations*. Any dwelling may contain a home occupation and all dwellings containing a home occupation shall comply with the following:

A. There shall be no retail sales of goods on the premises.

B. All persons involved in the home occupation shall be full-time residents.

C. There shall no evidence from the exterior that the dwelling is being utilized for purposes other than a dwelling.

D. No signs shall be utilized.

E. There shall be no increased need for additional off-street parking.

F. No more than 20 percent of the gross floor area of the dwelling unit, excluding attics, porches, garages, and basements, may be used for the practice of a home occupation.

G. The practice of the home occupation shall be permitted only inside the dwelling or accessory buildings.

H. Deliveries shall not restrict traffic circulation.

I. Traffic generated by the home occupation(s) shall not exceed volumes

normally expected in a residential neighborhood.

J. A home occupation shall not produce noise, obnoxious odors, vibrations, lighting glare, smoke, or fumes detectable to normal sensory perception on any adjacent lots or streets, nor shall it produce detectable electrical interference.

K. The disposal of all materials, fluids, and gases shall be in a manner which complies with all regulations of the Borough sewer and all other applicable government codes.

L. Home occupations utilizing, or proposing to utilize, explosive or highly flammable materials shall require proof of Fire Department notification.

4. *Regulations for Home Businesses*. The Zoning Hearing Board may approve home businesses as special exceptions (if otherwise listed as a special exception use) according to the procedures and requirements specified below. All dwellings containing a Home Business shall comply with the following:

A. The person primarily responsible for the home business shall be a full-time resident of the premises.

B. No more than one person not in residence in the dwelling shall be an employee in the home business(es).

C. No more than 25 percent of the gross floor area of the dwelling unit (excluding attics, porches, garages, and basements), may be used for the practice of home business(es).

D. No displays or change in the building facade, including the dwelling and all accessory buildings, shall indicate from the exterior that the dwelling is being utilized for purposes other than a dwelling.

E. A home business shall limit any external evidence of a business to one nonilluminated sign, subject to §27-1237 (sign regulations).

F. Adequate off-street parking facilities shall be provided to reasonably accommodate the normal activity of the home business(es) (with a minimum of that provided in §27-1205).

G. Storage of materials, products, or machinery used for the home business shall be wholly enclosed by the dwelling or accessory building, within the maximum floor area previously defined, and shall not be visible from any adjacent lot or street.

H. The home business(es) shall be conducted entirely within the dwelling or accessory building.

I. Deliveries shall not restrict traffic circulation.

J. Traffic generated by the home business(es) shall not exceed volumes normally expected in a residential neighborhood.

K. A home business shall not produce noise, obnoxious odors, vibrations, lighting glare, smoke, or fumes detectable to normal sensory perception on any adjacent lots or streets, nor shall it produce detectable electrical interference.

L. The disposal of all materials, fluids, and gases shall be in a manner which complies with all regulations of the Borough sewer and all other applicable government codes.

M. Sales of goods on the premises shall be limited to goods made on the

premises and goods which are incidental to services performed on the premises.

N. Home businesses utilizing, or proposing to utilize, explosive or highly flammable materials shall require proof of fire department notification.

O. Any other reasonable conditions set forth by the Zoning Hearing Board when granting approval.

5. No more than one home business shall be permitted on any one lot.

(*Ord. 12-8-97A*, 12/8/1997, §1204)

§27-1205. Off-Street Vehicles Storage and Parking.

1. *Required*. Off-street vehicle storage or standing spaces shall be provided on all lots for which there is a change of use, intensity of use, or new use hereafter established or where there is an addition of a new or addition to a principal building or a principal structure. Such spaces shall be surfaced with an "all weather" durable and dustless material, such as stone (except a stone surface shall not be permitted for Commercial or Industrial uses), asphalt, macadam or concrete and each space shall have vehicular access to a street or alley available for use by such lot.

2. *Computation*. For the purposes of computing the number of parking spaces available in a given area the ratio of 180 square feet per parking space shall be the minimum, with a minimum width of 9 feet and a minimum depth of 18 feet. Only the area actually used for parking shall be considered. Access or driving lanes shall not be included in the computation, except in the case of single-family detached and semi-detached dwellings without other uses contained therein. All parking spaces, except in the case of single-family detached and semi-detached dwellings without other uses contained therein, shall allow direct and immediate access without the necessity of traversing any other parking space. The location and size of all parking spaces shall be shown on a plan in order to enable the Borough to be sure that the computation requirements are met.

3. *Minimum Requirements*. Unless otherwise specially provided for in this Chapter, the following minimum number of parking spaces shall apply:

A. *Adult Entertainment Establishments*. One space for each 50 square feet of gross floor space (not limited just to service areas) and one space for every employee (full or part time) on each shift.

B. *Bed and Breakfast Inns*. As provided for in §27-1202.

C. *Boarding and Rooming Houses*. One space for each room to be occupied by boarders or roomers.

D. *Daycare Business*. One space for each employee and one space for every two children.

E. *Dwelling Units*. Two spaces for each dwelling unit.

F. *Family Daycare Home*. One additional space for any employee not a resident.

G. *Game Rooms*. One space to accommodate each vehicle of all employees (whether full time or part-time) contemplated on the premises at any given time, plus the greater of one space for every 100 square feet of gross floor area or one space for every mechanical amusement device in operation on the premises.

H. *Home Business*. One for each person not in residence in the dwelling and one additional one for each potential visitor at any one time.

I. *Hotel, Motel, Tourist Homes or Similar Accommodation*. One space for each rental room and one space for each employee on the largest shift.

J. *Industrial uses*. Spaces shall be provided as necessary for employees, business invitees and all other parties using the structure. A plan shall accompany the application together with statistics and other data to show that the proposed facilities will meet all anticipated needs. At a minimum there shall be one and one-half spaces for each two employees.

K. *Mixed Uses*. The parking for both or all uses shall be separately computed and the total shall be provided.

L. *Restaurant, Café, Tea Room or Other Place for the Sale of Drinks or Processed Foods*. One space for each 50 square feet of gross floor space (not limited just to service areas) and one space for each two seats.

M. *Schools*. Two and one-half spaces for each classroom.

N. *Theater, Auditorium, Church, Stadium or Other Place of Public Assembly*. One space for each three seats available at a maximum capacity.

O. For bench seating, 24 inches shall be used to measure each "seat."

P. *All Other Commercial Uses*. One space for each 200 square feet of floor area. However, warehouse or storage space shall not be used in the computation of floor area for such uses.

Q. In addition to parking spaces, sufficient provisions shall be made for storage of snow so that the minimum number of parking spaces will still be maintained in the winter.

R. *Other Structures and Uses*. Adequate spaces shall be provided for all uses of the premises. A plan shall accompany the application together with statistics and other data to show that the proposed facilities will meet all anticipated needs.

4. *General Parking Regulations*. If the vehicle storage area or standing space required above cannot be reasonably provided on the same lot on which the principal use is conducted, the Zoning Hearing Board may, as a special exception, permit such space to be provided on other off-street property. Such space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. The same off-lot space cannot be claimed by more than one user for use at the same time.

5. *Off-Street Loading and Unloading Space*. Off-street loading and unloading space (with any backing in to be exclusively off-street) sufficient for the purpose shall be provided for all business or industrial uses. Such space shall have access to a public street or alley. The Zoning Hearing Board may grant a special exception where hardship would result when an existing use is expanded and this requirement must be met.

A. *Minimum width* - 12 feet.

B. *Minimum length* - 50 feet.

C. *Minimum vertical clearance* - 16 feet.

6. *Parking Area Dimensions*.

A. Minimum dimensions for off-street parking and maneuvering space shall be as follows:

Parking Angle	Stall Width	Stall Depth	Aisle Width
90 degrees	9 feet	18 feet	25 feet
60 degrees	9 feet	18 feet	20 feet
45 degrees	9 feet	19 feet	18 feet

B. When off-street parking facilities are located adjacent to a public alley, the width may be assumed to be a portion of the maneuvering space requirement.

7. *Nonconforming Parking*. In the event of an expansion of a nonconforming building or use and where the parking for the presently existing building or use is validly nonconforming, the parking for the expanded building or use need only be brought up to the standards of this Chapter as to the expanded portion of the building or use.

(*Ord. 12-8-97A*, 12/8/1997, §1205)

§27-1206. Commercial Vehicular Parking or Storage Prohibitions.

1. The parking for more than 2 hours or the storage of a commercial licensed vehicle of a gross combination weight rating (GCWR) or gross vehicle weight rating (GVWR) in excess of 8,500 pounds is prohibited in Residential Districts R-1, R-2 and R-3, unless approved by special exception.

2. When granting special exceptions, the Zoning Hearing Board shall insure that:

A. The specific site will be an appropriate location for such uses.

B. Parking space, above that otherwise set forth in this Chapter, shall be constructed to provide for this use.

C. No more than one commercial vehicle will ever be parked on any lot at any one time.

D. No nuisance or hazard to vehicles or pedestrians will be created.

E. The location of the commercial vehicle will be adequately screened to keep to a minimum the visibility of the commercial vehicle from any adjoining properties and the public road.

F. The commercial vehicle will not be parked for in excess of 48 continuous hours.

G. Engine warmups longer than 5 minutes shall be prohibited and no cold storage compressor or other engine or similar noise shall be permitted between the hours of 11 p.m. and 7 a.m., prevailing time.

H. The nature of applicant's business requires that the commercial vehicle be parked on the lot.

I. The land which is to be used is not currently in violation of this Chapter.

J. The applicant has satisfied the Zoning Hearing Board that such use will not be detrimental to the general community.

3. As used herein, the term “gross combination weight rating (GCWR)” shall

mean the value specified by the manufacturer as a loaded weight of a combination and the term "gross vehicle weight rating (GVWR)" shall mean the value specified on the Federal weight certification label by the manufacturer as the loaded weight of a single vehicle. Except as is otherwise specifically provided herein, the term "licensed commercial vehicle" means any vehicle with a GCWR or GVWR in excess of 8,500 pounds, regardless of its intended use. The term "commercial vehicle" shall not include camping trailers or similar vehicles.

(*Ord. 12-8-97A*, 12/8/1997, §1206)

§27-1207. Game Rooms.

Each game room shall comply with the following:

A. Each shall have full separate toilet facilities for both sexes.

B. Each shall have at least two adult individuals supervising the conduct of patrons during all times when the game room is open.

C. Each shall provide adequate provision to prevent loitering around the outside of the premises.

D. Each shall have a clear window or one or more windows from which (from the outside) all machines inside the game room can be viewed.

E. No sound may emanate from the premises.

F. No electronic interference may emanate from the premises.

G. Full illumination shall be provided to all parking areas in the event the game room is open after dark (which said illumination shall not shine upon or interfere with the enjoyment of adjoining properties).

(*Ord. 12-8-97A*, 12/8/1997, §1207)

§27-1208. Illumination.

Wherever illumination is required or permitted in this Chapter, all illumination shall be restricted so that light emanating from any source on the property shall not be greater than 2 foot-candles measured at a 6-foot height at the property line.

(*Ord. 12-8-97A*, 12/8/1997, §1208)

§21-1209. Self-Service Storage Facility.

1. All self-service storage facilities shall be screened with a permanent barrier (to be approved by the Zoning Officer) so that the facility is not visible from adjacent residential dwellings or residential districts.

2. All driveway and parking surfaces shall be paved with a permanent paving material, such as concrete or asphalt.

3. Self-service storage facilities shall in all events be subject to the following additional criteria (in addition to those set forth in the general district regulations elsewhere in this Chapter). The maximum restriction that applies will be applicable:

A. The side and rear yards shall be a minimum of 25 feet, except where adjacent to a residential district in which case the side and rear yards shall be a minimum of 50 feet.

B. There shall be an open area (unpaved or covered) of a minimum of 20 percent of the area of the full lot.

C. The maximum building height shall be 18 feet.

D. Self-service storage facilities shall only be used for the temporary storage of goods not in use and not associated with any office, retail or other business on premises.

E. The storage of radioactive materials, explosives, and flammable or hazardous chemicals is prohibited.

F. Auctions, commercial, wholesale or retail sales from the premises are prohibited.

G. The servicing, repair or fabrication of any item (whether for profit or for personal use) is prohibited.

H. The operation of any power tool, spray painting equipment, table saw, lathe, compressor, welding equipment, kilns or other similar equipment is prohibited.

I. The use for a transfer or storage business is prohibited.

J. There shall be travel aisles which shall be a minimum of 20 feet in width for one-way aisles and 28 feet in width for two-way aisles.

K. All lighting shall be deflected away from residential dwellings.

L. No outdoor storage is allowed.

M. The minimum floor area for each rental unit shall be 35 square feet.

N. No storage unit door shall be constructed facing a residentially zoned property.

(*Ord. 12-8-97A*, 12/8/1997, §1209)

§27-1210. Specific Uses Prohibited.

The following uses are specifically prohibited in all Districts, they being of such a nature as to be totally inconsistent with a highly populated Borough:

A. Dead animal or other rendering plants.

B. Automobile, "jalopy," "go-kart," and other self-propelled types of vehicles, racing tracks or drag strips.

C. Any occupation, trade or process is not specifically allowed pursuant to this Chapter where substantial noise, dust, smoke, refuse matter, gas, electrical interference, illumination, vibrations or smells may emanate from the occupation, trade or process on to adjoining properties.

D. Junkyards and recycling facilities.

E. The keeping of nondomesticated animals.

F. The extraction of natural resources, other than water.

G. Landfill.

H. Any agricultural facility on any lot or the keeping of more than 10 animals or birds at any one time.

(*Ord. 12-8-97A*, 12/8/1997, §1210)

§27-1211. Height Limit Exceptions.

Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required for operation and maintenance of the building; skylights, towers steeples, flagpoles, chimneys, smoke stacks, wireless masts, radio and television antennas, utility poles, water tanks or similar structures may be erected above the height limits herein prescribed. However, no penthouse or roof structure or any space above the height limit shall be allowed for the purpose of providing additional floor space for any use. Additionally, the maximum height of all new structures or structures being altered shall not exceed 85 feet from the lowest point to the highest point, or more than 10 feet above any existing structure that already is 75 feet in height or higher.

(*Ord. 12-8-97A*, 12/8/1997, §1211)

§27-1212. Adult Entertainment Establishments.

1. *Purpose and Legislative Intent*

A. It is hereby declared a matter of legislative declaration and belief that the morals of minors of Akron Borough are threatened by the presence of adult entertainment establishments as said term is hereinafter defined. These establishments, and the type and character of the merchandise, paraphernalia and services sold in them, create an atmosphere of enticement for minors of Akron Borough that is increased by the lascivious and suggestive advertising often employed to promote the availability of these products and services. It is the intent of the Borough Council to minimize the exposure of these establishments.

B. It is the firm belief of Council that it has a vital duty and role to protect the moral fiber and standards of its residents, in particular the minors of the community.

C. The location of adult entertainment establishments is of vital concern to society with regard to their location near areas where minors may learn, play, pass by, or would be exposed to the advertising, window displays, or the general atmosphere encompassing their operation. The legislative body finds that adult entertainment establishments, because of their very nature, are recognized as having objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby having a deleterious effect upon adjacent areas. Special regulation of these businesses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods.

D. It is the intent of the Borough Council in enacting these regulations relative to adult entertainment establishments to exercise only those powers granted to it. These regulations shall in no way be deemed to permit any adult entertainment establishment, as defined herein, which would otherwise be prohibited or in any way regulated by any other obscenity ordinance, and other State, County or local ordinances.

E. Further, these regulations are enacted to promote, protect and facilitate the public health, safety, morals and general welfare of all residents of Akron Borough.

2. *Definitions*. It is the purpose of this subsection, together with its paragraphs,

to provide clear and concise definitions of those words, terms, and phrases most commonly utilized in the provisions of these regulations in order to assist in the interpretation of said provisions and to insure uniformity of application. It is intended that the following words, terms and phrases, whenever used, shall be construed as defined in the following paragraphs unless from the context a different meaning is clearly intended. The following definitions are intended to supplement the definitions contained in Part 5:

A. For the purpose of this Part, "adult entertainment establishments" are defined as follows:

(1) *Adult bookstore* - any establishment which has a substantial or significant portion of its stock in trade as:

(a) Books, films, magazines or other forms of audio or visual representation which are distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.

(b) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.

(2) *Adult cabaret* - a nightclub, theater, bar or other establishment which features live or media representations of performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(3) *Adult mini motion picture theater* - an enclosed or unenclosed building with a capacity of more than five, but less than 50, persons used for presenting any form of audio or visual material, and in which a substantial portion of the total presentation time measured on an annual basis is devoted to the showing of material which is distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.

(4) *Adult model studio* - any place where, for any form of consideration or gratuity, figure models who display specified anatomical areas are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such consideration or gratuity, except that this provision shall not apply to any "figure studio" or "school of art" or similar establishment which meets the requirements established in the Education Code of the Commonwealth of Pennsylvania for the issuance or conferring of, and is in fact authorized thereunder to issue and confer a diploma.

(5) *Adult motel* - a motel or similar establishment offering public accommodations for any consideration, which provides patrons with material distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.

(6) *Adult motion picture arcade* - any place to which the public is permitted or invited wherein coin or slug operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at anyone time, and where the images to be displayed are

distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.

(7) *Adult motion picture theater* - an enclosed or unenclosed building with a capacity of 50 or more persons used for presenting any form of audio or visual material, and in which a substantial portion of the total presentation time measured on an annual basis is devoted to the showing of material which is distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.

(8) *Adult newsrack* - any coin operated machine or device which dispenses material substantially devoted to the depiction of specified sexual activities or specified anatomical areas.

(9) *Adult theater* - a theater, concert hall, auditorium or other similar establishment, either indoor or outdoor in nature which regularly features live performances which are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas for observation by patrons.

(10) *Bath house* - an establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy during which specified anatomical areas are displayed or specified sexual activity occurs. This subparagraph shall not apply to hydrotherapy treatment practiced by, or under the supervision of a medical practitioner. A medical practitioner, for the purpose of this Chapter, shall be a medical doctor, physician, chiropractor or similar professional licensed by the Commonwealth of Pennsylvania.

(11) *Body painting studio* - any establishment or business which provides the service of applying paint or other substance whether transparent or nontransparent, to or on the human body when specified anatomical areas are exposed.

(12) *Massage establishment* - any establishment or business which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy, unless operated by a medical practitioner, chiropractor or professional physical therapist licensed by the Commonwealth. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

(13) *Outcall service activity* - any establishment or business which provides an outcall service which consists of individuals leaving the premises for a period of time for the purpose of providing any service during which time specified anatomical areas are displayed or specified sexual activities occur.

(14) *Sexual encounter center* - any business, agency, or person who, for any form of consideration or gratuity, provides a place where two or more persons may congregate, assemble or associate for the purpose of engaging in specified sexual activity or exposing specified anatomical areas, excluding psychosexual workshops, operated by a medical practitioner, licensed by the Commonwealth, to engage in sexual therapy.

(15) Any other business or establishment which offers its patrons services

or entertainment characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

B. *Specified anatomical areas* - as used herein shall mean and include any of the following:

(1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae.

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

C. *Specified sexual activities* - includes the following:

(1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following depicted sexually oriented acts or conduct; anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty.

(2) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence.

(3) Use of human or animal masturbation, sodomy, oral copulation, coitus, ejaculation.

(4) Fondling or touching of nude human genitals, pubic region, buttocks or female breast.

(5) Masochism, erotic or sexually oriented torture, beating, or the infliction of pain.

(6) Erotic or lewd touching, fondling or other contact with an animal by a human being.

(7) Human excretion, urination, menstruation, vaginal or anal irritation.

3. *Permits Required*. No person shall operate an adult entertainment establishment without first obtaining a use and occupancy permit as provided elsewhere in this Chapter and all other applicable permits required by law.

4. *Minimum Spacing and Proximity Requirements*.

A. No adult entertainment establishment shall be located within 1,000 feet of any other adult entertainment establishment.

B. No adult entertainment establishment shall be located within specified distances of certain land uses as set forth below:

(1) No such establishment shall be located on a lot in a zoning district, which zoning district boundary line is immediately adjacent to a residential dwelling lot in a residential zoning district.

(2) No such establishment shall be located within 350 feet of any parcel of land which contains any one or more of the following specified land uses (either within the Borough or an adjacent municipality):

(a) Amusement park.

(b) Camp (for minors activity).

(c) Child care facility.

(d) Church or other similar religious facility.

(e) Community center.

(f) Museum.

(g) Nursing home.

(h) School.

C. The distance between any two adult entertainment establishments shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior parcel line of each establishment. The distance between any adult entertainment establishment and any land use specified in paragraph .B above shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior parcel line of the adult entertainment establishment to the closest point on the property line of said land use.

5. *Visibility from the Street*. No person operating an adult entertainment establishment shall permit, or cause to be permitted, any stock in trade which depicts, describes or relates to specified sexual activities and/or specified anatomical areas as defined herein, to be viewed from the street, sidewalk or highway.

(*Ord. 12-8-97A*, 12/8/1997, §1212)

§27-1213. Accessory Buildings.

1. *Setback*. All detached accessory buildings shall be set back at least 6 feet from each side and rear yard and shall not be within any front yard. The maximum height of each detached accessory building shall not exceed a mean height of 10 feet.

2. *Detached Accessory Buildings in Residential Districts*. In the R-1, R-2 and R-3 Districts, the following additional regulations shall apply:

A. As used herein the term "accessory buildings" shall not include private garages but shall include such items as sheds, dog houses, and pool cabanas.

B. *Other Detached Accessory Buildings*. Other detached accessory buildings may be located in any required rear yard provided:

(1) Such building shall not exceed one story or be more than 15 feet in height.

(2) All such buildings in the aggregate shall not occupy more than 30 percent of the area of the required rear yard where so located.

(3) Such building shall not exceed 250 square feet in floor area. [*Ord. 99002*]

(4) Maximum total combined square footage for all such buildings shall not exceed 600 square feet for each lot. [*Ord. 99002*]

C. Detached accessory buildings for permitted attached and semi-detached dwellings shall be located no closer than 6 feet from any side lot line formed by a

building party wall.

3. *Detached Accessory Buildings in Nonresidential Districts*.

A. In any nonresidential district, an accessory building on that portion of a lot not included in any required yard shall conform with the height regulations for principal buildings.

B. Accessory buildings located in a rear yard area shall be a minimum of 20 feet from the rear property line.

C. Accessory buildings shall be a minimum of 10 feet from any side property line.

4. The maximum number of detached accessory buildings on any lot shall be three. [*Ord. 99002*]

5. All detached private garages and detached accessory buildings shall not be constructed of paper, cardboard, cloth, canvas, plastic or other similar nonpermanent materials.

6. No detached accessory building shall be located in front of the front facade above the principal building in any residential district.

(*Ord. 12-8-97A*, 12/8/1997, §1213; as amended by *Ord. 99002*, 2/8/1999, §§I-II)

§27-1214. Detached Private Garages.

1. The maximum capacity of a detached private garage shall not exceed three cars for each single family dwelling and shall not exceed one car for each multifamily dwelling.

2. The maximum height of each detached private garage shall not exceed 18 feet mean height.

3. No temporary detached private garages are permitted.

4. Any detached private garage shall be set back the minimum of the same distance as the principal dwelling, (but not within the front yard setback), except rear yards cannot be less than 10 feet.

(*Ord. 12-8-97A*, 12/8/1997, §1214)

§27-1215. Fences and Walls.

1. In the R-1, R-2 and R-3 Residential Districts, no fence or wall shall exceed 4 feet in height in any front yard or in any side yard in front of the front building facade or 6 feet in height in any rear yard or in any side yard not in front of the front building facade. A front yard fence or wall shall be located behind the sidewalk.

2. In nonresidential districts, fences or walls may be erected to a height not exceeding 8 feet along the side and rear lot lines, with the following exceptions:

A. No fence or wall shall exceed 4 feet in height along any side lot line between the front property line and the front setback line, nor across the front of any commercial or industrial property forward of any abutting property's front setback line.

B. Where such lots abut property zoned residential, fences or walls may not exceed 6 feet in height along lot lines where so abutting.

3. Fences surrounding tennis courts may be erected to a height not exceeding 10 feet, subject to the further requirements of §27-1223.

4. No fence or wall shall be constructed nor shall any vegetation be allowed to grow or be planted which would obstruct a required clear sight triangle (See §27-1234) or which would obstruct or substantially impair vision from a private driveway's exit onto a public roadway or alleyway.

5. In any areas in front of a dwelling facade (exclusive of porch or other protrusions) no wall shall be permitted and no fence shall have a ratio of open area to solid fence in excess of four parts open area to one part solid fence.

(*Ord. 12-8-97A*, 12/8/1997, §1215)

§27-1216. Water Supply and Sewage Facilities Required.

In the interest of protecting the public health, safety and welfare, no building hereafter erected, altered or moved shall be provided with other than a municipal supplied water and sewer service.

(*Ord. 12-8-97A*, 12/8/1997, §1216)

§27-1217. Temporary Structures for Dwelling Purposes.

No cabin, mobile home, garage, shed, camper, basement without a full story above, or other temporary structure, whether of a fixed or mobile nature, may hereafter be erected, maintained or established for any dwelling purpose for any length of time unless approval for temporary use is granted as a special exception by the Zoning Hearing Board.

(*Ord. 12-8-97A*, 12/8/1997, §1217)

§27-1218. Building Length.

The maximum building length of any one building shall be 150 feet.

(*Ord. 12-8-97A*, 12/8/1997, §1218)

§27-1219. Yard and Lot Requirements.

1. *Corner Lots*.

A. Front yards are required on all street frontages, and the other yards shall be deemed to be side yards.

2. *Projections into Required Yards*.

A. Cornices, canopies, gutters, eaves or architectural features may project into side yards a distance not exceeding 2 inches per 1 foot of side yard width but may not exceed a total of 3 feet.

B. Bay windows, balconies, fireplaces, uncovered stairways and necessary landings, and chimneys may project a distance not exceeding 3 feet into a required side yard.

C. Patios and paved terraces may be located in side and rear yards provided that they do not extend closer than 5 feet from any property line. In case of a corner lot, no such structure shall extend into the required yard adjoining each street.

3. *Through Lots*. Where a lot extends from street to street, the applicable yard

regulations shall apply on both street frontages. However, in the event of a complete system of through lots which are designed for reverse frontage, the front yard need only be along the more minor street of the subdivision.

(*Ord. 12-8-97A*, 12/8/1997, §1219)

§27-1220. Outdoor Storage for Nonresidential Uses.

1. Outdoor storage for nonresidential uses shall be completely screened from view of any adjacent residential use. Screening shall consist of evergreen plantings, architectural screen, fence or wall.

2. No storage shall be permitted within the front yard of any lot.

3. Outside storage of raw materials and/or finished products shall be permitted only within the buildable area of the lot to the rear of the front building wall of the principal building, and shall not exceed 20 feet in height in nonresidential districts and 10 feet in height in residential districts.

4. In multiple family, commercial, industrial and other nonresidential developments, garbage storage shall be centralized and enclosed on three sides by architectural screening or plantings.

5. No flammable or explosive liquids, solids or gases shall be stored in bulk above ground, except for tanks of fuel (A) directly connected to energy or heating devices or (B) used in conjunction with active construction activities. A list of such liquids, solids or gases stored on site shall be supplied to the fire company serving the Borough. The applicant shall also demonstrate compliance with all applicable regulations of the U.S. Environmental Protection Agency; Pennsylvania Department of Environmental Protection; and the Pennsylvania State Police, Fire Marshal Division, including notification and registration requirements. All tanks must be properly screened from all adjacent residential uses.

6. No structure or land shall be used or developed, and no structure shall be located, extended, converted or structurally altered unless the applicant takes all reasonable measures to minimize the impacts of the aboveground and underground storage of heating oil, gasoline, diesel fuel, chemical solutions or other substances which, if released, would constitute pollutants to surface water or groundwater. The applicant shall also demonstrate compliance with all applicable regulations of the U. S. Environmental Protection Agency; Pennsylvania Department of Environmental Protection; and the Pennsylvania State Police, Fire Marshal Division, including notification and registration requirements.

(*Ord. 12-8-97A*, 12/8/1997, §1220)

§27-1221. Outdoor Storage; Residential Uses.

1. Outdoor storage for residential uses shall be completely screened from view of any adjacent residential use. Screening shall consist of evergreen plantings, architectural screen, fence or wall.

2. No outdoor storage shall be permitted within the front yard of any lot.

3. Outside storage of raw materials and/or finished products shall be permitted only within the buildable area of the lot to the rear of the front building wall of the principal building, and shall not exceed 6 feet in height in residential districts and 10

feet in height in other districts.

4. No flammable or explosive liquids, solids or gases shall be stored in bulk above ground, except for tanks of fuel (A) directly connected to energy or heating devices or (B) used in conjunction with active construction activities. A list of such liquids, solids or gases stored on site shall be supplied to the fire company serving the Borough. The applicant shall also demonstrate compliance with all applicable regulations of the U.S. Environmental Protection Agency; Pennsylvania Department of Environmental Protection; and the Pennsylvania State Police, Fire Marshal Division, including notification and registration requirements. All tanks must be properly screened, from all adjacent residential uses.

5. No structure or land shall be used or developed, and no structure shall be located, extended, converted or structurally altered unless the applicant takes all reasonable measures to minimize the impacts of the above ground and underground storage of heating oil, gasoline, diesel fuel, chemical solutions or other substances which, if released, would constitute pollutants to surface water or groundwater. The applicant shall also demonstrate compliance with all applicable regulations of the U.

6. Environmental Protection Agency; Pennsylvania Department of Environmental Protection; and the Pennsylvania State Police, Fire Marshal Division, including notification and registration requirements.

(*Ord. 12-8-97A*, 12/8/1997, §1221)

§27-1222. Private Outdoor Swimming Pools.

A building permit shall be required for the installation or construction of a private outdoor swimming pool on the same lot as the principal residence, subject to the following conditions:

A. Such pool may not be erected or installed in any required side yard, front yard or rear yard.

B. The pool shall not be located closer to the front of the lot than the front facade (excluding porches or other protrusions) of the principal building.

C. Any such pool shall be completely surrounded by a fence or wall that is not less than 4 feet in height. All gates or doors opening through said fence shall be erected, maintained and provided with a self-closing, lockable gate to prevent unauthorized use of the pool and to prevent accidents. However, if said pool is an above-ground pool with sidewalls extending more than 3½ feet above the ground level, then a fence is not required, provided that all points of access to said pool are adequately protected.

D. An approved temporary construction fence shall be erected around the excavation site during the construction of an in-ground pool and shall remain in place until the permanent fence is installed.

E. Water shall not be placed into a swimming pool until a certificate of use and occupancy has been issued.

F. No swimming pool shall occupy more than 25 of the area of the lot on which it is built.

G. Floodlighting or other illumination used in conjunction with any swimming pool shall be shielded and directed away from adjacent properties.

H. Hot tubs and spas shall be considered pools for purposes of this Section and shall in all respects comply with this Section unless they include a lockable cover which is kept locked when not in use or comply with paragraph .C, in which case they need only comply with paragraphs .A, .B, .E, .G, .K, and .L, hereof.

I. No structure shall be permitted or maintained without an applicable, maintained filtration system utilizing an approved method of treatment of water.

J. All permanent (a type customarily providing for treatment of water) pool types which exceeds 1 foot above the mean ground level shall be screened by a permanent screen of a fence or vegetation with a height of no less than the maximum structural height of said pool and any attached or related structures thereto. Vegetation screens shall be such that when planted would customarily grow to said height within a period of no more than two growing seasons. However, fences shall not exceed a height of 6 feet.

L. Any structure not maintained in a useable condition, abandoned, or where use has been discontinued, shall be immediately removed.

(*Ord. 12-8-97A*, 12/8/1997, §1222)

§27-1223. Tennis Courts.

Tennis courts are permitted accessory uses to residences in all residential zoning districts, subject to the following:

A. No facility shall be permitted unless it is protected by a permanent, open mesh, chain link fence 10 feet in height behind each baseline extending 10 feet beyond the playing area in each direction.

B. Any such facility, including fence, shall conform to all minimum setbacks.

C. No facility, including fence, shall be located closer to the front of the lot than the front facade (excluding porches or other protrusions) of the principal building.

D. Illumination shall be subject to §27-1208 hereof.

E. Any structure not maintained in a useable condition, abandoned, or where use has been discontinued, shall be immediately removed.

(*Ord. 12-8-97A*, 12/8/1997, §1223)

§27-1224. Antennas.

Antennas are permitted accessory structures in all zoning districts, subject to the following:

A. Antennas shall be installed in accordance with manufacturers' specifications and shall not exceed 12 feet in diameter. They may be located only in rear or side yards or on the roof of a building and must adhere to the specified setback requirements for the zoning district in which they are located.

B. Ground-mounted satellite antennas shall not exceed 15 feet in height.

C. Roof or chimney-mounted antennas are subject to the requirements of paragraph .B except that they also may not project more than 5 feet above the roofline. The maximum size of a roof or chimney-mounted antenna shall not exceed 5 feet in diameter.

D. This Section shall not be construed to regulate antennas of a size of 1 meter or less, which shall be free of regulation.

(*Ord. 12-8-97A*, 12/8/1997, §1224)

§27-1225. Cellular Uses.

1. The shared use of existing towers and antenna facilities shall be encouraged and preferred to the construction of new such facilities.

2. The applicant shall submit an adequate report inventorying existing towers and antenna sites within ½ mile search radius of the proposed tower, outlining opportunities for shared use as an alternative to the proposed use.

3. The applicant must demonstrate the proposed tower or antenna cannot be accommodated on an existing approved tower or facility due to one or more of the following reasons:

A. Unwillingness of the owner to entertain a cellular telephone facility proposal.

B. The planned equipment would exceed the structural capacity of existing and approved towers and facilities, considering existing and planned use for those facilities.

C. The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented.

D. Existing or approved towers or facilities do not have the space on which the proposed equipment can be placed so it can function reasonably.

E. Other reasons make it impractical to place the equipment proposed by the applicant on existing and approved towers or facilities.

(*Ord. 12-8-97A*, 12/8/1997, §1225)

§27-1226. Abandoned Vehicles.

In all districts, junked, wrecked, stripped or inoperable motor vehicles or trailers, all trailers without current registration plates and all motor vehicles without current registration plates and inspection stickers displayed thereon shall be parked or stored in a completely enclosed building unless the lawful principal use of the property on which such vehicles or trailers are located involves the repair, storage or disposal thereof.

(*Ord. 12-8-97A*, 12/8/1997, §1226)

§27-1227. Erection of More than One Principal Building on a Lot.

In any district, more than one principal use or more than one building housing a permitted or permissible principal use may be erected on a single lot, provided that all yard and other requirements of this Chapter are met for each building and each use as though each use and/or building were on an individual lot.

(*Ord. 12-8-97A*, 12/8/1997, §1227)

§27-1228. Structures to Have Access.

Every building hereafter erected or placed shall be on a lot adjacent to a public

street or with access to a private street approved as a special exception by the Zoning Hearing Board, and all structures shall be so located on lots so as to provide safe and convenient access for servicing, fire protection, and required off-street parking. The minimum width of access measured at the right-of-way line of the street shall be 25 feet.

(*Ord. 12-8-97A*, 12/8/1997, §1228)

§27-1229. Storage of Explosives.

No explosives, other than small supplies of gunpowder for personal reloading of firearms, shall be stored in the Borough except that explosives may be stored in the C-1 District, provided the storage area is no closer than 200 feet to any property line, and provided the requirements of all other provisions of this Chapter have been previously met.

(*Ord. 12-8-97A*, 12/8/1997, §1229)

§27-1230. Automobile Service Station.

The building shall be constructed so as to blend harmoniously with the surrounding neighborhood. All automobile parts, dismantled, inoperable or derelict vehicles and similar parts shall be stored only within an enclosed building. All gasoline pumps shall be located outside of buildings on private property and in no case within 20 feet of any property line or the street cartway. All repair work shall be performed inside a building.

(*Ord. 12-8-97A*, 12/8/1997, §1230)

§27-1231. Slope.

In those areas of the Borough where the natural slope of land exceeds 20 percent no structure will be erected, except on special exception granted, which shall find that the use will not unduly disturb existing grades and natural soil conditions. A statement must be prepared by an engineer in regard to the building method used in overcoming foundation problems, the maintenance of the natural watershed, and the means of preventing soil erosion. Such statement must be approved by the Zoning Hearing Board as part of the special exception proceeding.

(*Ord. 12-8-97A*, 12/8/1997, §1231)

§27-1232. Accessory Building and Structures; Animal Structures.

As an accessory building or structure in any zoning district, an animal shelter for domesticated animals owned by the occupant may be maintained by the occupant for noncommercial purposes, provided the area on which a shelter and/or exercise yard is maintained is suitably enclosed, all yard requirements are maintained, and it is not closer than the greater of 10 feet from property lines or 50 feet from the nearest dwelling (other than the dwelling of the occupant). In any residential district, up to two saddle horses may be maintained by occupant, providing no building, corral or stable is located the closer than the greater of 100 feet from the property line or 200 feet from the nearest dwelling (other than the dwelling of the occupant). No more than four animals over 6 months of age shall be permitted on any lot in any residential district.

(*Ord. 12-8-97A*, 12/8/1997, §1232)

§27-1233. Kennels.

All kennels in this Borough shall be completely enclosed and there shall be no sounds of animals or smells of animal waste that can be heard or smelled off the property lines.

(*Ord. 12-8-97A*, 12/8/1997, §1233)

§27-1234. Visibility at Street Intersections.

A 100-foot clear sight triangle shall be provided and maintained at all street intersections. The triangle shall be established by measuring 100 feet from the point of intersection of the centerlines of the streets. No building, structure, planting, parking, or other obstruction that would obscure the vision of a motorist shall be permitted within such area.

Borough signage and utility poles shall not be considered offending structures. In the cases of fences and walls in the front yard setback or building line, they shall also not extend beyond the greater of one-half the front yard setback or building line distance as those terms are set forth herein. [*Ord. 00057*]

(*Ord. 12-8-97A*, 12/8/1997, §1234; as amended by *Ord. 00057*, 4/11/2011, §III)

§27-1235. Temporary Construction Structures.

During the course of active construction and prior to the issuance of any certificate of use and occupancy permit, the Zoning Officer may issue a temporary permit (which shall be valid for no longer than the period for which the building permit is valid) allowing for the placement on property upon which construction is taking place of temporary storage or office trailers, or portable sanitary facilities as are necessary for completion of the project. The Zoning Officer shall require that all such structures and facilities comply with yard requirements for structures otherwise set forth herein and shall have discretion to limit occupancy inconsistent with the health, safety and welfare of the community. All such structures shall be sufficiently secured to the ground to prevent turnover from storms. All such structures shall only be used for storage and uses relating to property upon which they rest and the number may be limited by the Zoning Officer, to prevent abuse or reduce dangers.

(*Ord. 12-8-97A*, 12/8/1997, §1235)

§27-1236. Temporary Quarters.

1. Temporary quarters dwelling unit shall additionally meet all parking requirements of the district for a dwelling unit (which shall be in addition to the parking requirements for any other unit of occupancy of the structure).

2. Temporary quarters shall be limited to one such use per lot.

3. There shall be no change in the external facade.

4. Occupancy shall be limited to no more than two individuals at any one time.

5. The Zoning Hearing Board may grant reasonable conditions to insure that the essential character of the structure and use is not changed in any fashion.

6. Permission shall only be granted for a period of 5 years and shall automatically expire upon the death or removal of the last disabled/injured or elderly person. However, permission shall be automatically renewable for additional 2-year terms by

applying to the Zoning Officer prior to the expiration of the fifth year in writing, confirming the continued occupation of the structure by the same disabled/injured or elderly person. Upon expiration, the structure shall be restored so there is only one dwelling unit.

(*Ord. 12-8-97A*, 12/8/1997, §1236)

§27-1237. Sign Regulations.

1. *Purposes*. The purposes of these sign regulations are (A) to regulate the promulgation of signage in order to maintain and enhance the traditional aesthetic environment of the Borough; (B) to promote pedestrian and traffic safety; (C) to minimize the adverse effects of signage on nearby properties; and (D) to enable the fair and consistent enforcement of these sign restrictions.

2. *Applicability; Effect*. Signs may be erected, placed, established, created, altered or maintained only in conformance with the standards, procedures, exemptions and other requirements of this Section and any and all other ordinances and regulations relating to signs and similar devices. Zoning permits will be required for the erection, placement, establishment, creation or alteration of all signs unless otherwise indicated in this Section. The effect of this Section, as more specifically set forth herein, is as follows:

A. To establish a permit system to allow a variety of types of signs in nonresidential districts, and a limited variety of signs in all other districts, subject to the standards and the permit procedures of this Section.

B. To allow certain signs that are small, unobtrusive and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this Section, but without a requirement for permits.

C. To provide for temporary signs without commercial messages in limited circumstances in the public right-of-way.

D. To prohibit all signs not expressly permitted by this Section.

E. To provide for enforcement of the provisions of this Section.

3. *Computations*. The following regulations shall control the computation of sign area and sign height:

A. *Computation of Area of Individual Signs*.

(1) The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by measuring the outside edges of the structure (but excluding poles or other support that do not contain a part of the sign).

(2) In the case of canopies, which contain a part of which shall be a sign, the area of the sign on the canopy shall be computed by the means of the smallest square, triangle, rectangle or circle, or combination thereof, that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed.

B. *Computation of Area of Multifaced Signs*. The sign area for a sign with more than one face shall be computed by computing the largest area of the largest

sign face.

C. *Computation of Sign Height*. The height of a sign shall be computed as the distance from the greater of the base of the sign or its pole at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign.

4. *Design, Construction, and Maintenance*. All signs shall be designed, constructed and maintained in accordance with the following standards:

A. Except for banners, flags, yard sale signs, temporary signs and window signs conforming in all respects with the requirements of this Section, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building or another structure by direct attachment to a rigid wall, frame or structure.

B. All signs shall be maintained in good structural condition.

5. *Signs Permitted in All Districts*. Signs listed in this Section are permitted in all zoning districts as defined in this Chapter and shall not require permits (except certain real estate marketing signs as defined herein below) and shall not be counted when calculating the number of signs on a premises; however, such signs shall conform with the general regulations for signs enumerated in the remainder of this Section:

A. *Name and Address of Resident*. Name and address of resident, but not to include any commercial advertising, of not more than 2 square feet in sign area.

B. *No Trespassing Signs*. No trespassing signs or other such signs regulating the use of a property, such as "No Hunting" and "No Fishing," of not more than 2 square feet in sign area in residential districts, and 5 square feet in all nonresidential districts.

C. *Signs Regulating On-Premises Traffic, Parking or Other Functional Subjects*. Signs regulating on-premises traffic (Examples: "In-Out," "Enter-Exit"), parking or other functional subdivision, such as lavatory facilities, telephone, hours of operation, "open/closed," signs denoting other sections of a premises such as "Lubrication" and "Office," of not more than 2 square feet in sign area in residential districts, and 5 square feet in all nonresidential districts. All such signs shall bear no commercial advertising, logos or other identifications.

D. *Signs Erected by a Governmental Body*. Signs erected by a governmental body or under the direction of such a body and bearing no commercial advertising, such as traffic signs, railroad crossing signs, safety signs, and signs identifying public schools and playgrounds.

E. *Memorial Signs or Tablets*. Memorial signs or tablets and signs denoting the date of erection of buildings, with no more than 2 square feet of sign area.

F. *Special Events of Charitable or Public Service Groups*. Such signs shall be limited to a maximum size of 32 square feet in area and shall be removed as soon as the event or activity thereby has occurred and shall not be permitted to exist more than 15 days prior to such event or activity.

G. *Yard Sale Signs*. Such signs shall however be subject to all provisions of other applicable Borough ordinances.

6. *Signs and Other Devices Prohibited in All zoning districts*. The following signs

and other devices shall not be permitted, erected or maintained in any zoning district, notwithstanding anything else to the contrary contained in this section or elsewhere:

A. Signs which incorporate in any manner any flashing or moving illumination or with illumination which varies in intensity or which varies in color, and signs which have any visible moving part, visible revolving parts, or visible mechanical movement of any description, or other apparent visible movement achieved by electrical pulsations or by action of normal wind currents. Clocks, hanging signs which move with air currents, time and temperature signs and barber poles are excepted, provided they otherwise comply with all other provisions of this Chapter.

B. Light sources which cast light on signs unless shielded by opaque material so that bulbs are not visible from off the property on which the signs are located.

C. Any sign or sign structure which constitutes a hazard to public safety or health.

D. Signs which by reason of size, location, content, coloring, or manner or intensity of illumination, distract or obstruct the vision of drivers, either when leaving a roadway or driveway, or obstruct or detract from the visibility or effectiveness of any traffic sign or control device or public streets and roads.

E. Any sign which obstructs free ingress to or egress from a fire escape, door, window or other required building exit.

F. Signs which may use of the words such as "Stop," "Look," "One-Way," "Danger," "Yield," or any similar words, phrases, symbols, lights or characters, in such a manner as to interfere with, mislead or confuse traffic.

G. Any sign which advertises a defunct business or product no longer sold.

H. Signs on public property or public rights-of-way, unless erected by a governmental body, or unless required to be so located by order of a governmental body.

I. Signs painted on, attached to, or supported by a municipal sign or street light standard, stone, cliff, or other natural object.

J. Searchlights, pennants, spinners, banners and streamers, inflatable balloons and similar devices, except for temporary occasions (such as grand openings) not to exceed 15 days duration and no more than one time a calendar year.

7. *Limit on Number of Signs Per Premises*. Notwithstanding anything to the contrary in this Section or elsewhere, no more than three signs may be erected or maintained on any premises at any one time, except when a building is located on a corner lot and has public entrances on two or more public ways, or where a building has both a front and rear public entrance, one additional sign may be erected. A double-faced sign shall count as a single sign. Signs enumerated in subsections 5.C, .D and .E shall not be included in calculating the total.

8. *Limit on Height of Signs*. No free standing sign or any part thereof (including braces, supports or lights) shall exceed a height of 20 feet.

9. *Signs in the Public Right-of-Way*. No signs shall be allowed in the public right-of-way, except for the following:

A. *Permanent Signs*. Permanent signs, including:

(1) Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information and direct or regulate pedestrian or vehicular traffic.

(2) Bus stop signs erected by a public transit company.

(3) Informational signs of a public utility regarding its poles, lines, pipes or facilities.

B. *Temporary Signs*. Temporary signs, including:

(1) Public signs erected by or on behalf of a governmental body to post legal notices, convey public information and direct or regulate pedestrian or vehicular traffic.

C. *Emergency Signs*. Emergency warning signs erected by a governmental agency, a public utility company or a contractor doing authorized or permitted work within the public right-of-way.

D. *Other Signs Forfeited*. Any sign installed or placed on public property, except in conformance with the requirements of this Section, shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the Borough shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such signs.

10. *Permitted Signs in zoning districts*. Signs are permitted in the Borough of Akron as follows:

A. *Residential R-1, Residential R-2, and Residential R3 Districts*.

(1) Signs permitted under subsection .5, as further restricted below.

(2) *Residential Signs*. One identification sign per dwelling unit and one sign indicating the private nature of a driveway or premises. If lighted, signs shall be illuminated by incident rays adequately shielded to avoid glare.

(3) *Signs for Uses Permitted for Nonconforming Uses*. Signs for the identification of those uses permitted for the identification of nonconforming uses may be approved by the Zoning Hearing Board. The Board shall determine the size and type of sign so as to protect the appearance and character of the district in which it will be located, but in no event may the signs exceed those in the commercial districts in any way.

(4) *Real Estate Marking Signs*. Real estate marking signs shall not exceed 4 square feet and shall be removed within a week after settlement on the sale or lease of the property.

(5) All signs are subject to the general regulations of this Section.

(6) All signs for home businesses or home occupations shall be limited to one sign with a maximum of 2 square feet, which shall not be located on or that it in any way projects upon any sidewalk or any passageway.

(7) *Permanent Residential Development Signs*. Permanent residential development signs at major entrances designed to identify a residential subdivision and containing no commercial advertising shall have a maximum area of 25 square feet.

B. *Commercial C-1 and C-M Districts*.

(1) Signs permitted under subsection .5, are also further restricted below.

(2) Signs shall identify the name of the facility and/or advertise only services or products available on the premises.

(3) The total area of all signs shall not exceed 30 square feet.

(4) Projecting signs, freestanding signs and wall signs shall be subject to the size as stated in subsection .12 and shall be no more than 15 feet above grade.

(5) The specific criteria in subsection .12 related to certain sign types and uses shall also apply.

(6) Real estate signs shall not exceed 20 square feet and shall be removed within a week after settlement on the sale of the property.

(7) In the Commercial-1 District only, where a lot has access exclusively across a private right-of-way or where secondary access is provided across a private right-of-way, such lot shall be allowed a free-standing sign within said private right-of-way (subject to the other requirements of this Chapter) which additional sign may also serve all uses having access through said private right-of-way, but which additional sign shall be subject to the size and other limitations contained in this Chapter. [*Ord. 99003*]

(8) All signs are subject to the general regulations of this Section.

11. *Temporary Signs*.

A. Except as may be allowed by *Ord. 377*, adopted 11/19/1990 [Chapter 19, Part 1] no temporary signs are permitted in the Borough except as follows: one temporary sign of contractors, engineers, architects, mechanics, landscapers, artisans and similar services are permitted, provided that:

(1) Such sign shall be erected only on the premises where such work has commenced.

(2) The sign area of any such sign shall not exceed the area permitted for real estate signs in the district where the work is being performed. Larger signs may be permitted when required by government agencies.

(3) Such sign shall be removed within 5 days of completion of advertised work.

B. A temporary sign for repetitive seasonal work is permitted, provided that such sign shall not be displayed more than once for each property in any 1 year and then not for in excess of 30 days. Any sign displayed for longer than 30 days shall be considered as permanent and will not be allowed.

12. *Additional Criteria for Certain Sign Types and Uses*.

A. *Projecting Signs*. In addition to the general provisions of this Section, the following regulations shall apply to all projecting signs:

(1) No sign shall project into any building setback.

(2) No portion of any sign shall be less than 8 feet above normal grade.

(3) No single face of a sign shall exceed 15 square feet in sign area.

(4) No sign shall have a vertical dimension greater than 6 feet.

B. *Wall Signs*. In addition to the general provisions of this Section, the following regulations shall apply to all wall signs:

(1) No sign shall extend above the top of the wall upon which it is placed.

(2) No sign, or any part thereof, shall project more than 6 inches from the wall upon which it is mounted.

(3) No sign shall extend beyond the left and right extremities of the wall to which it is attached.

(4) There shall be more than one sign per business on any building or structure, and the aggregate sign area shall have a total area of not more than 25 percent of the wall area.

(5) The total of all wall signs on any structure cannot exceed 30 square feet.

C. *Freestanding Signs*. In addition to the general provisions of this Section, the following regulations shall apply to all freestanding signs.

(1) Every freestanding sign and all parts, braces and supports thereof shall be located entirely within the property lines of the premises and shall not project over public rights-of-way or other adjoining lands. Freestanding signs may be permitted between the property line and the building setback line, except where otherwise prohibited by this Chapter. The base of the sign shall be located behind the street right-of-way. The sign shall be no less than 3 feet and not more than 15 feet above the curb line, and shall not project closer than 7 feet from the curb line or 2 feet from the right-of-way, whichever is more restrictive of the two.

(2) A freestanding sign shall have no more than two faces or advertising sides.

(3) No freestanding sign face or advertising sign shall have any dimension (length, width, diameter, etc.) in excess of 10 lineal feet.

(4) All freestanding signs hereafter erected shall be centrally located within a planted green area at least equal to the allowable area of a single face or advertising side for the subject sign, which area shall also include ornamental evergreen shrubbery to minimize the visibility of poles, supports and braces of such sign.

(5) There shall be no more than one freestanding sign for each building. Notwithstanding the foregoing, whenever the provisions of §27-1237.10.B(7) apply, there shall be allowed joint usage within a secondary access point (in fee or by easement) of one additional free-standing sign, which additional free-standing sign may be used concurrently by all property owners with rights to use such easement. [*Ord. 99003*]

D. *Roof Signs*. Roof signs are prohibited in the Borough.

13. *Off-Premises Signs*.

A. Signs which advertise products or services other than those which are sold on the premises where the sign is located may be erected only in the C-1 zoning district, and only provided that all of the following criteria are met:

(1) The surface area of the sign does not exceed 200 square feet.

(2) No sign shall be erected less than 100 feet from an existing residence.

(3) There shall be a minimum of 750 feet between signs.

(4) No sign shall be more than 25 feet high.

(5) The sign shall be set a minimum of 30 feet from the street right of way line.

(6) Only one advertisement of any particular business shall be permitted on each side of the sign.

B. The provisions of subsection .13.A. shall not apply as to free-standing signs within private rights-of-way as are specifically described in §27-1237.10.B(7) hereof. [*Ord. 99003*]

14. *Applications and Permits*.

A. Applications for permits to erect, alter or modify permanent signs shall be made to the Zoning Officer.

B. Except as provided in subsection .5 hereof, it shall be unlawful to commence the erection of any permanent sign or to commence the moving or alteration of any permanent sign until the Zoning Officer has issued a sign permit for such work.

C. In applying to the Zoning Officer for a sign permit, the applicant shall submit a dimensional sketch or scale plan indicating the shape, size, height and location of all signs to be erected, altered or moved and supply such other information as may be required by the Zoning Officer for determining whether the provisions of this Section are being observed. If the proposed sign as set forth in the application is in conformity with the provisions of this Section and other ordinances of the Borough then in force, the Zoning Officer shall issue a sign permit for such sign. If the sign permit is refused, the Zoning Officer shall state such refusal in writing with the cause of such refusal explained. The issuance of a permit shall in no case be construed as waiving any provisions of this Section.

15. *Removal of Certain Signs*. After 1 year, any sign which advertises business or service no longer in existence on the premises shall be considered to be abandoned. Signs that are abandoned shall be removed by the persons responsible for the erection and/or maintenance thereof or the property owner within 30 days after notice of the abandonment to such persons by the Zoning Officer. If such persons fail or refuse to remove such abandoned signs after the notice aforesaid, the Zoning Officer may (in addition to other remedies in this Chapter) remove the signs at the expense of the property owner or the persons responsible for the erection and/or maintenance thereof.

16. *Violations*. Any of the following shall be a violation of this Chapter and shall be subject to the enforcement remedies and penalties provided by this Chapter and by State law:

A. To install, create, erect or maintain any sign in a way that is inconsistent with any plan or permit governing such sign or the premises on which the sign is located.

B. To install, create, erect or maintain any sign requiring a permit without such a permit.

C. To fail to remove any sign that is installed, created, erected or maintained in violation of this Chapter.

D. To continue any such violation.

(*Ord. 12-8-97A*, 12/8/1997, §1237; as amended by *Ord. 99003*, 12/8/1997, §I-III)

§27-1238. Organizational Headquarters Campus.

A conditional use campus shall be permitted in the Residential-2 (R-2) zoning district as a conditional use in accordance with the standards established in this Part. Where the general standards established in any portion of this Chapter and the specific criteria established for the organizational headquarters Campus conflict, the organizational headquarters Campus specific criteria shall supersede and govern.

A. *Master Development Plan*. A developer of an organizational headquarters campus shall submit a master development plan in accordance with this Chapter.

B. *Organizational Headquarters Campus Criteria*.

(1) *Minimum Requirements*.

(a) *Sewer and Water*. Both public sewer and public water service are required.

(b) *Pathway Lighting*. Interior pathways on the organizational headquarters campus shall be lighted using nonobtrusive landscape lighting. In no circumstances shall the organizational headquarters campus lighting exceed the standards established in §27-1208 of this Chapter.

(c) *Access*. Proposed Lot must abut or have access to a Borough street as identified by the Borough on its Comprehensive Plan as either a collector, arterial or minor street.

(d) *Minimum Lot Area*. Eight acres of contiguous area. The overall campus headquarters may also include lands in the Residential 2 (R-2) Zoning District that are separated by a street, alley, right-of-way or easement as long as there is at least 8 acres of contiguous land. [*Ord. 00079*]

(e) *Minimum Lot Area, Width and Depth*. None, except as based upon required minimum yard dimensions, minimum open area, minimum off-street parking requirements, and other applicable standards of the underlying district contained within this Chapter.

(f) *Minimum Yard Dimensions*.

1) *Front Yard*.

a) All buildings on the perimeter of the organizational headquarters campus shall be set back at least 40 feet from any adjacent street or lot line of the organizational headquarters campus.

b) Buildings within the organizational headquarters campus shall be set back a minimum of 25 feet from internal streets, or other improvements; provided, however, that specific dimensional standards established for interior yards shall apply

in the event of inconsistency with this standard.

c) Existing buildings and structures may be integrated into and used as part of an organizational headquarters campus even if such buildings and structures do not comply with the current front yard setback requirements. Existing buildings and structures also may be replaced and expanded as long as the new building or structure will not extend nearer to the street, lot line or an internal improvement than the part of the existing building or structure which is nearest to the street, lot line or internal improvement. [*Ord. 00079*]

2) *Interior Yards*. Open space between separate principal buildings on the lot.

a) When front to front, rear to rear, or front to rear, parallel buildings shall have 30 feet between faces of the building. If the front or rear faces are obliquely aligned, the above distance may be decreased by as much as 10 feet at one end if increased by similar or greater distance at the other end.

b) An interior yard of 40 feet is required between end walls of buildings. If the buildings are at right angles to each other, the distance between the corners of the end walls of the building may be reduced to a minimum of 20 feet.

c) If each building is a detached or semi-detached dwelling the separation requirements stated above shall be reduced by 50 percent as to those dwellings.

d) Existing buildings and structures may be integrated into and used as part of an organizational headquarters campus even if such buildings and structures do not comply with the requirements for interior yards. Existing buildings and structures also may be replaced and expanded as long the new building or structure will not extend nearer to another building on the campus than the part of the existing building or structure which is nearest to another building on the campus. [*Ord. 00079*]

(g) *Maximum Impervious Surface / Lot Coverage*. Forty percent of the total organizational headquarters campus shall be open space. Lot coverage/impervious surface shall not exceed 60 percent of the lot. Lot coverage/impervious surface within a public right-of-way shall be excluded from the area that is considered impervious/lot coverage when calculating the lot coverage/impervious surface for an organizational headquarters campus. [*Ord. 00079*]

(h) *Off-Street Parking*. Off-street parking shall be provided in accordance with §27-1205 of this Chapter; provided, that if the owner of an organizational headquarters campus provides evidence establishing to a reasonable degree of certainty that a combined total parking space allocation for the entire organizational headquarters campus will meet the reasonably foreseeable parking needs and be consistent with the purpose of this Chapter, Borough Council may reduce the minimum total parking

space allocation to the number of spaces shown by the owner's evidence to be adequate. Any parking space allocation so reduced shall be made a condition of an approved conditional use. As part of the conditional use review process, Borough Council may (at its discretion) allow the use of existing parking areas as part of an organizational headquarters campus even if such parking areas do not meet all of the parking requirements set forth in §27-1205 or do not satisfy the applicable yard and set back requirements, if such parking is deemed adequate by Borough Council for the use(s) proposed and does not create or worsen safety or aesthetic concerns. [*Ord. 00079*]

(2) *Landscape Buffer*. Portions of the perimeter of the organizational headquarters campus that adjoin either:

(a) Properties with dwellings constructed on them.

(b) Property which is undeveloped and residentially zone and are not bounded by a public street shall be provided a landscape buffer strip for the length of the portion of the perimeter adjacent to a residential zoning district.

(c) A landscape buffer shall not be required along the perimeter of the organizational headquarters campus where existing buildings or structures will be used as part of the campus or when an existing building or structure is replaced with a new building or structure to be used as part of the campus as long as there is existing landscaping in place and it is retained. As part of the conditional use review process, Borough Council may require additional landscape buffering and/or fencing if Council deems it necessary based on the proposed use of the existing or new building or structure and the extent and/or condition of the existing landscaping, plus where deemed necessary by Borough Council to protect adjoining residential uses not part of the organizational headquarters campus. [*Ord. 00079*]

C. *Maximum Building Height*.

(1) 40 feet.

(2) Buildings located within 150 feet of the lot perimeter shall be limited to three stories.

D. *Accessory Uses*. The following accessory uses are specifically recognized:

(1) Accessory buildings, uses and services customarily incidental to the organizational headquarters campus uses including but not limited to the following:

(a) Automobile parking lots and parking garages for the use by residents, staff and guests of the organizational headquarters campus.

(b) Maintenance buildings, workshops and garages that are used to support the organizational headquarters campus, but only if designed to blend into the nearby residential community and operated (except in emergencies or to address weather conditions) only between 7 a.m. to 6 p.m. prevailing time and no sounds or odors emanate from any such use that are disruptive or offensive for a residential neighborhood. [*Ord.*

00079]

(2) Retail sales of goods incidental to and for the convenience of persons or residents directly related to the organization (e.g., flowers, gifts and books). All such sales facilities shall be located within buildings in which the other uses permitted in conjunction with the organization are located. Retail sales may not exceed 2 percent of the floor area of all buildings within the organizational headquarters campus, or 700 square feet, whichever is greater, and shall serve exclusively residents, staff, and guests of the organization.

(3) Warehouse and storage facilities incidental to the use only by the organization and directly related organizations for purposes directly related to the purpose for which the organization has been established.

(4) Research and development facilities incidental to and accessory to the organizational headquarters campus.

(5) Temporary (not longer than 5 days) use of organizational headquarters campus dwellings, accessory buildings, and facilities, including dining and kitchen services, for conferences offered to persons in furtherance of the mission or purpose of the organization by the organization or by entities related to the organization.

(*Ord. 12-8-97A*, 12/8/1997, §1238; as added by *Ord. 99005*, 7/12/1999, §1.D; and amended by *Ord. 00079*, 5/28/2014, §§I–VII)

Part 13

Mobile Homes and Mobile Home Parks

§27-1301. Individual Mobile Homes.

1. Individual mobile homes will be considered single-family detached dwellings, as special exceptions if they conform with all lot and yard requirements for a single-family detached dwelling and with the following additional criteria:

A. *Foundations*. All mobile homes shall be set upon and securely fastened to a permanent foundation of block or concrete with concrete footings extending at least 36 inches below finished grade that will not heave, shift, settle or move due to frost action, inadequate drainage, or other forces acting on the superstructure. In addition to the foregoing, the mobile home foundation will be provided with devices for anchoring the mobile home to the foundation to prevent overturning or uplift of the mobile home. The anchoring devices shall be in the form of anchor bolts, fastened securely to the base frame of the mobile home and anchored to the concrete footings with adequate anchor plates or hooks.

B. *Axles*. All axles, wheels and any hitch shall be removed from the mobile home and either removed from the lot or placed within a building.

C. *Laws*. The construction of all mobile homes shall conform to the requirements of the Manufactured Housing Construction and Safety Standards Authorization Act 35 P.S. §1656.1 *et seq*., as amended, and any other State or Federal laws and regulations including, but not limited to, the Borough's ordinances, and no mobile home shall be modified or improved without strict compliance with this Act, those ordinances and all other applicable provisions.

D. *Enclosures*. An enclosure of compatible design and materials shall be erected around the entire base of the mobile home. Such enclosure shall provide sufficient ventilation to inhibit decay and deterioration of the structure.

E. *Water and Sewer*. The mobile home shall be connected to public water and public sewer systems.

F. *Fuel Tanks*. All fuel storage tanks or cylinders which are buried shall not be placed beneath the mobile home.

G. *Grounding*. All exposed noncurrent carrying metal parts of mobile homes and all other equipment shall be grounded by means of an approved grounding conductor run with branch circuit conductors or other approved method of grounded metallic wiring. The neutral conductors shall not be used as an equipment ground for mobile homes or other equipment.

H. *Patios*. Each home shall be equipped with concrete entrance pad of a size of at least 6 feet by 10 feet, or such other entrance facilities as the Zoning Hearing Board, at the request of the applicant, shall find provides adequate and permanent access.

2. No mobile home shall be used for any purpose in the Borough other than as a single-family detached dwelling.

(*Ord. 12-8-97A*, 12/8/1997, §1301)

§27-1302. Mobile Home Parks.

1. *Size*. Each mobile home park shall consist of at least a minimum of 15 acres.

2. *Space*. Each mobile home space shall consist of at least 4,000 square feet.

3. *Side Yard*. Each mobile home space shall have a side yard on both sides of a minimum of 14 feet each.

4. *Minimum Lot Width*. Each mobile home space shall have a minimum lot width at the berth of 40 feet.

5. *Rear Yard*. Each mobile home space shall a rear yard of at least 15 feet.

6. *Setbacks*. Each mobile home shall have a minimum distance between the mobile home and the lot line of 50 feet.

7. *Maximum Lot Coverage*. Each mobile home space shall have lot coverage and paving of not more than 60 percent.

8. *Maximum Paved Area*. Each mobile home park shall have a maximum paved or covered area of not more than 30 percent.

9. *Minimum Open Areas*. Each mobile home park shall have a minimum open area for the entire mobile home park development (which can include stormwater detention areas) of no less than 60 percent.

10. *Density*. No mobile home park shall contain more than six units per acre.

11. *Home Size*. No mobile home shall contain less than 750 square feet of floor space.

12. *Individual Mobile Homes*. All provisions of §27-1301 hereof shall be applicable to all mobile homes in mobile home parks.

13. *Underground Utilities*. All mobile home parks shall be equipped exclusively with underground utilities.

14. *Parking Areas*. Separate screened parking areas for recreational vehicles, boats, or other resident owned accessory vehicles shall be provided. They shall be paved, fenced, and equipped with lights. Only these spaces shall be used for those uses.

15. *Trees*. A minimum of three trees shall be placed on each mobile home space.

16. *Storage Shed*. The maximum size of any storage shed for a mobile home shall be 65 square feet and shall not be more than 8 feet in height. No storage shed shall be within 5 feet of any mobile home or any yard lines.

17. *Additions*. No mobile home may add an addition or enclose in any way (other than a porch awning) any unenclosed space outside a mobile home.

18. *Driveways*. All driveways and walkways within the park shall be hard surfaced and lighted at night with electric lamps of not less than 100 watts, each spaced at intervals of not more than 100 feet.

19. *Mobile Home Park Streets*.

A. *Width*. All mobile home park streets shall have a pavement width of 24 feet.

B. *Construction Standards*. Pavement base and pavement wearing surface shall be constructed according to the specifications applicable to standard Borough streets.

C. All park streets in a mobile home park shall be private driveways and shall be provided with adequate lighting. Each mobile home space shall abut on a park street with access to such street. Access to all mobile home spaces shall be from the park streets and not from public streets or highways. No parking shall be allowed on park streets.

D. *Grades*. There shall be a minimum grade of 0.75 percent and a maximum grade of 10 percent on all mobile home park streets.

20. *Off-Street Parking*.

A. Each mobile home space shall be provided with a minimum of two paved parking spaces of bituminous or concrete surface which shall be located on the mobile home space.

B. Off street visitors parking shall be provided at the rate of one space for every five mobile homes.

(*Ord. 12-8-97A*, 12/8/1997, §1302)

Part 14

Floodplain Districts

§27-1401. Purpose and Intent.

1. The FP - Floodplain District includes the areas of the Borough of Akron which are subject to periodic inundation by floodwaters.

2. In the interest of public health, safety, and welfare, the regulations of the FP - Floodplain District are designed and intended to protect floodplain areas subject to and necessary for floodwaters, to permit and encourage the retention of open land uses so located and utilized as to constitute a harmonious and appropriate part of the physical development of the Borough of Akron as provided for in the Borough of Akron Comprehensive Plan, and to guide incompatible development into more appropriate zoning districts.

3. In advancing these principles and the general purposes of this Chapter and the Borough of Akron Comprehensive Plan, the specific intent of this district includes the following:

A. To combine with present regulations, certain restrictions necessary for the control of floodplains for the general health, safety, and welfare of the community.

B. To prevent the erection of structures in areas unfit for human usage by reason of danger from flooding.

C. To minimize danger to public health by protecting water quality and promoting safe and sanitary drainage.

D. To control development which, acting alone or in combination with similar development, will create and impose additional unjustified burdens on the community, its governmental units, and its individuals for the costs of flood control works, rescue, relief, emergency preparedness measures, sandbagging, pumping, and temporary dikes or levees, as well as business interruptions, factory closings, disruptions of transportation routes, and interference with utility services, as well as other factors that result in loss of wages, sales, and production and generally adversely affect the economic well being of the community.

E. To maintain a stable tax base through the preservation or enhancement of property values adjacent to the floodplain, as well as by preventing the creation of future flood blighted areas on floodplains.

F. To permit certain uses which can appropriately be located in the Floodplain as herein defined without impeding the flow of floodwaters or otherwise causing danger or damage to life or property at, above, or below their locations in the floodplain.

G. To permit certain uses in the floodplain in ways that preserve natural conditions conducive to the maintenance of ecological balance, wildlife and productive marine habitat, other healthy biotic systems, scenic and natural values, constant rates of water flow throughout the year, and areas for groundwater absorption for sustaining the subsurface water supply.

H. To provide sufficient unimpeded drainage Courses and prohibit the

restriction of their carrying capacities so as to safely carry abnormal flows of stormwater from periods of heavy precipitation.

I. To encourage the utilization of appropriate construction practices which will minimize flood damage in the future.

J. To prevent the placement of materials which might be swept by floods onto other lands or downstream to the injury of others.

K. To provide for public awareness of flooding potential and to discourage and protect unwary individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

L. To regulate uses, activities, development, and structures which, acting alone or in combination with existing or future uses, activities, development, or structures, will cause increases in flood heights, velocities, and frequencies.

M. To provide areas for the deposition of sediment.

N. To protect people and property in other municipalities within the same watershed from the impact of improper development in floodplains and the consequent increased potential for flooding.

O. To provide consistency between this Part, the SWMO [Chapter 17] and SALDO [Chapter 22]. [*Ord. 00076*]

4. *Interpretation*. The provisions of this Section are specifically meant pertain to floodplain regulations. In any case where the provisions of this Section may appear to conflict with provisions in other Parts of this Chapter, the Stormwater Management Ordinance [Chapter 17], SALDO [Chapter 22] or the provisions of the Municipalities Planning Code 53 P.S. §10101 *et seq*., or other State and Federal regulations, the provision containing the most restrictive language shall apply unless waived by Akron Borough Council. [*Ord. 00076*]

(*Ord. 12-8-97A*, 12/8/1997, §1401; as amended by *Ord. 00027*, 4/11/2005, §J; by *Ord. 00076*, 4/14/2014, §12; and by *Ord. 00076*, 4/14/2014, §§12, 13)

§27-1402. Definitions.

1. Unless specifically defined below or in Part 5 of this Chapter, words and phrases used in this Part shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Chapter its most reasonable application. Words used in the singular include the plural and words used in the plural include the singular. The words "shall" and "will" are mandatory, and the words "may" and "should" are permissive. In interpreting and applying the provisions of this Chapter, they shall be held to be the minimum requirements for the promotion of public health, safety, comfort, convenience and general welfare. When the provisions of this Chapter impose greater restrictions than those of any other statute, ordinance or regulations, the provisions of this Chapter shall be controlling. Where the provisions of any statute, other ordinance, or regulations impose greater restrictions than this Chapter, the provisions of such statute or other ordinance or regulations shall be controlling. This Chapter is not intended to interfere with, abrogate or annul any easement, covenant, or other agreement between private parties. However, where this Chapter imposes greater restrictions than those imposed upon such easement, covenant or agreement, the provisions of this Chapter shall apply. The provisions of this Chapter

and those of Chapters 22 and 27 of the Borough of Akron Code of Ordinances shall be read together, so to give a logical interpretation of the integration of their various requirements. The following specific definitions of words and phrases are intended to supplement the definitions contained in Part 5 and are intended to be applicable to this Part only: [*Ord. 00076*]

Accessory use or *structure* - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure. [*Ord. 00027*]

Basement - any area of the building having its floor below ground level on all sides. [*Ord. 00027*]

Building - any structure, either temporary or permanent, having walls and a roof or other covering, and designed or used for the shelter or enclosure of any person, animal, or property of any kind, including tents, awnings, or vehicles situated on private property and used for purposes stated above. For the purposes of this Part, the word "building" shall include gas or liquid storage tanks.

Channel - a natural or artificial watercourse with a definite bed and banks which confine and conduct continuously or periodically flowing water.

Channel flow - that water which is flowing within the limits of a defined channel.

Completely dry space - a space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor. [*Ord. 00027*]

Conservation plan - a plan including a map(s) and narrative that, at the very least, outlines an erosion and sedimentation control plan for an identified parcel of land.

Development - any man-made change to improved or unimproved real estate including, but not limited to, construction, reconstruction, renovation, repair, expansion or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving; utilities; filling, grading and excavation, mining; dredging; drilling operations; storage equipment or materials; and subdivision of land. [*Ord. 00027*]

Driveway - A private drive providing access between a public or private street or access drive and a permitted use or structure.

Essentially dry space - a space which will remain dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially impermeable to the passage of water. [*Ord. 00027*]

Fill - material placed or deposited so as to form an embankment or raise the surface elevation of the land, including but not limited to levees, bulkheads, dikes, jetties, embankments, and causeways.

Floodway - the designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Part, the floodway shall be capable of accommodating a flood of the 100-year magnitude. [*Ord. 00027*]

500-year flood - a flood which is likely to be equaled or exceeded once every 500 years (i.e., that has a $^1/_5$ of 1 percent chance of being equaled or exceeded in any given year). A study by the Federal Insurance Administration, the United States

Army Corps of Engineers, the United States Department Agriculture's Soil Conservation Service, the United States Geological Survey, the Susquehanna River Basin Commission, or a licensed professional registered by the Commonwealth of Pennsylvania to perform such a study is necessary to define this flood.

500-year flood boundary - the outer boundary of an area of land that is likely to be flooded once every 500 years (i.e., that has a $^1/_5$ of 1 percent chance of being flooded each year). A study by the Federal Insurance Administration, the United States Army Corps of Engineers, the United States Department of Agriculture's Soil Conservation Service, the United States Geological Survey, the Susquehanna River Basin Commission, or a licensed professional registered by the Commonwealth of Pennsylvania to perform such a study is necessary to define this boundary.

500-year flood elevation - the water surface elevation of the 500-year flood.

Flood, flooded, or *flooding* - a partial or complete inundation of normally dry land areas from the overflow of a watercourse or other body of surface water, or from the unusual and rapid accumulation or runoff of surface waters from any source.

Flood of record - the flood which has reached the highest flood elevation above mean sea level at a particular location.

Floodplain - an area of land adjacent to the channel of a watercourse which has been or is likely to be flooded, or any area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

Floodplain area - a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river, watercourse; and/or, any area subject to the usual rapid accumulation of surface waters from any source. [*Ord. 00027*]

Floodproof, floodproofed, or *floodproofing* - any combination of structural and/or nonstructural provisions, additions, changes, or adjustments to structures or contents which are designed or adapted primarily to reduce or eliminate flood damage to those structures or contents. [*Ord. 00027*]

Hazardous material - materials which have the potential to damage health or impair safety. Hazardous materials include, but are not limited to, inorganic mineral, acid or sulphur, fluorine, chlorine, nitrogen, chromium, phosphorous, selenium and arsenic and their common salts, lead, nickel, and mercury and their inorganic salts or metallo-organic derivatives; coal tar acids, such as phenols and cresols, and their salts; petroleum products; and radioactive material. Also included are floatable materials with the potential to cause physical damage, such as logs, storage tanks, and large containers.

Historic structure - any structure that is:

(1) Listed individually in the National Register of Historic Places a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or

a district preliminarily determined by the Secretary to qualify as a registered historic district.

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior.

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved State program as determined by the Secretary of the Interior.

(b) Directly by the Secretary of the Interior in states without approved programs.

[*Ord. 00027*]

Identified floodplain area - the floodplain area specifically identified in this ordinance as being inundated by the 100-year flood. [*Ord. 00027*]

Land development - any of the following activities:

(1) The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:

(a) 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.

(b) 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.

[*Ord. 00027*]

Lowest floor - the lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood-resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable nonelevation design requirements of this Chapter. [*Ord. 00027*]

Manufactured home - a structure, transportable in one or more sections, which is built on a permanent chassis, and designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days. [*Ord. 00027*]

Manufactured home park - a parcel of land under single ownership which has been planned and improved for the placement of two or more manufactured homes for nontransient use. [*Ord. 00027*]

Maximum flood elevation - the water surface elevations of a flood which would completely fill the floodplain to the boundaries of the FP - Floodplain District.

Mean sea level - the average height of the sea for all stages of the tide, using the National Geodetic Vertical Datum of 1929.

Minor repair - the replacement of existing work with equivalent materials for

the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety. [*Ord. 00027*]

Mobile home - a transportable, single family dwelling intended for permanent occupancy, office, or place of assembly contained in one unit, or in two units designed to be joined into one integral units capable of again being separated for repeated towing, which arrives at a size 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.

New construction - structures for which the start of construction commences on or after the effective date of this Part.

Obstruction - any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, or other matter in, along, across, or projecting into any channel, watercourse, or floodplain, which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to cause damage to life or property.

100-year flood - a flood which is likely to be equaled or exceeded once every 100 years (i.e., that has a 1 percent chance of being equaled or exceeded in any given year). A study by the Federal Insurance Administration, the United States Army Crops of Engineers, the United States Department of Agriculture's Soil Conservation Service, the United States Geological Survey, the Susquehanna River Basin Commission, or a licensed professional registered by the Commonwealth of Pennsylvania to perform such a study is necessary to define this flood.

100-year flood boundary - the outer boundary of an area of land that is likely to be flooded once every 100 years (i.e., that has a 1 percent chance of being flooded each year). A study by the Federal Insurance Administration, the United States Army Corps of Engineers, the United States Department of Agriculture's Soil Conservation Service, the United States Geological Survey, the Susquehanna River Basin Commission, or a licensed professional registered by the Commonwealth of Pennsylvania to perform such a study is necessary to define this boundary.

100-year flood elevation - the water surface elevations of the 100-year flood.

Person - an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility, or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties. [*Ord. 00027*]

Pesticide - any substance or mixture of substances intended for use in preventing, destroying, repelling, sterilizing, or mitigating any insects, rodents, nematodes, predatory animals, fungi, weeds, or other forms of plant or animal life.

Petroleum product - oil or petroleum of any kind and in any form, including

crude oil and derivatives of crude oil. It may be alone, as a sludge, as oil refuse, or mixed with other wastes.

Radioactive material - any natural or artificially produced substance which emits radiation spontaneous.

Recreational vehicle - a vehicle which is:

(1) Built on a single chassis.

(2) Not more than 400 square feet, measured at the largest horizontal projections.

(3) Designed to be self-propelled or permanently towable by a light-duty truck.

(4) Not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

[*Ord. 00027*]

Regulatory flood elevation - the 100-year flood elevation plus a freeboard safety factor of 1½ feet. [*Ord. 00027*]

Repetitive loss - flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceed 25 percent of the market value of the structure before the damages occurred. [*Ord. 00027*]

Soil survey - the latest published version of the United States Department of Agriculture's soil survey for Lancaster County, Pennsylvania.

Solid waste - garbage, sludge, refuse, trash, rubbish, debris, and other discarded materials including, but not limited to, solid and liquid waste materials resulting from industrial, commercial, agricultural, residential, and community activities.

Special permit - a special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks and subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain. [*Ord. 00027*]

Structure - anything constructed or erected on the ground or attached to the ground including, but not limited to, buildings, sheds, manufactured homes and other similar items. The term includes any manmade object having an ascertainable stationary location on or in land or water whether or not affixed to the land. [*Ord. 00027*]

Subdivision - the division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted. [*Ord. 00027*]

Substantial damage - damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or

exceed 50 percent or more of the market value of the structure before the damage occurred. [*Ord. 00027*]

Substantial improvement - any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage, [or repetitive loss, when repetitive loss language is used], regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official which are the minimum necessary to ensure safe living conditions.

(2) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

[*Ord. 00027*]

Uniform Construction Code (UCC) - the Statewide building code adopted by the Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, the Code adopted the International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the Commonwealth floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC. [*Ord. 00027*]

Watercourse - a permanent or intermittent stream, river, brook, run, creek, channel, swale, pond, lake, or other body of surface water, carrying or holding surface water, whether natural or man-made.

Watershed - all the land from which water drains into a particular watercourse.

2. The definitions in this Section are specifically meant to be interrupted as they pertain to the floodplain regulations. These definitions may also be read in concert with other definitions throughout this Chapter and Stormwater Management Ordinance [Chapter 17]. However, in any case where the definitions conflict with those in other articles of this Chapter or the provisions of the Pennsylvania Municipalities Code, 53 P.S. §10101 *et seq*., the definition containing the most restrictive language shall control. [*Ord. 00027*]

(*Ord. 12-8-97A*, 12/8/1997, §1402; as amended by *Ord. 00027*, 4/11/2005, §§F-I; and by *Ord. 00076*, 4/14/2014, §14)

§27-1403. Lands in District Defined.

1. The FP - Floodplain District is hereby defined to include all of the following lands within the Borough of Akron:

A. The identified floodplain area shall be those areas of the Borough of Akron which are subject to the 100-year flood, as identified in the Flood Insurance Study (FIS) dated April 19, 2005 and the accompanying maps prepared for Lancaster County by the Federal Emergency Management Agency (FEMA), or the most recent

revision thereof. [*Ord. 00027*]

B. All land within the 100-year flood boundaries of all watercourses including, but not limited to, all land which is so identified by the United States Geological Survey or the United States Army Corps of Engineers.

C. All those areas identified as being subject to the 500-year flood in the Flood Insurance Study prepared for The Borough of Akron by the Federal Emergency Management Agency. [*Ord. 00027*]

D. All land delineated by the soil survey as possessing alluvial or floodplain soils. The following soils (listed by map symbol and mapping unit name) are the soils indicated as alluvial by the United States Department of Agriculture's Soil Conservation Service in maps and data comprising the Soil Survey, Lancaster County, Pennsylvania, issued October 1959:

(1) Ac - Alluvial land.

(2) DIA - Bowmansville silt loam, 0-6 percent slopes.

(3) CfA - Chewacla silt loam, 0-3 percent slopes.

(4) CmA - Congaree silt loam, 0-3 percent slopes.

(5) HcA - Huntington fine sandy loam, 0-3 percent slope.

(6) HdA - Huntington silt loam, 0-3 Percent slopes.

(7) HeA - Huntington silt loam, local alluvium, 0-3 percent slopes.

(8) LnA - Lindside silt loam, 0-3 slopes.

(9) LoA - Lindside silt loam, local alluvium, 0-3 percent slopes.

(10) LoB - Lindside silt loam, local alluvium, 3-6 percent slopes except colluvium.

(11) MfA - Melvin silt loam, 0-3 percent slopes.

(12) Rb - Riverwash.

(13) RcA - Roland and Bermudian silt loams, 0-3 percent slopes.

(14) WcA - Wehadkee silt loam, 0-3 percent slopes.

E. All land which has been flooded by floods of record.

F. All additional land delineated under subsection .2 of this Part.

2. Where the complete and definitive information necessary to delineate the boundary of the FP - Floodplain District is not available to the Zoning Officer in his consideration of an application for a permit, he shall require such on-site studies and/or surveys to be made as are necessary to fix the precise boundaries of the FP-Floodplain District as defined in this Section. Such studies and surveys shall be signed, sealed, and certified by a licensed professional registered by the Commonwealth of Pennsylvania to perform such studies and surveys. Such certification shall acknowledge the accuracy of the study or survey and the qualification of the individual to perform such studies and surveys. Such certification shall acknowledge the accuracy, of the study or survey and the qualification of the individual to perform such study or survey. Copies of such studies and surveys shall be submitted by the Zoning Officer to the Borough of Akron Engineer and the United States Department of Agriculture, Soil Conservation Service, who shall have 30 days to comment. Any property owner whose property is so studied and/or surveyed to justify an application for a permit shall pay all costs of these studies

and surveys, except for work done under retainer to or on behalf of the Borough of Akron.

(*Ord. 12-8-97A*, 12/8/1997, §1403; as amended by *Ord. 00027*, 4/11/2005, §A)

§27-1404. Boundary Disputes.

1. Should a dispute concerning any boundary of the FP-Floodplain District arise, the initial determination of the Zoning Officer may be appealed to the Zoning Hearing Board. The burden of proof in such an appeal shall be on the property owner. The property owner shall pay all costs associated with the hearing before the Zoning Hearing Board, including all costs for advertising public notice, for fees to Zoning Hearing Board members, for fees to the Borough Solicitor, and for all stenographic records including the attendance of a stenographer and, when necessary, the transcription of the record.

2. All changes to the boundaries of the FP-Floodplain District which affect areas identified in §27-1403.1.A of this Part are subject to the review and approval of the Federal Emergency Management Agency for compliance with the rules and regulations of the National Flood Insurance Program.

(*Ord. 12-8-97A*, 12/8/1997, §1404; as amended by *Ord. 00027*, 4/11/2005, §A)

§27-1405. Relationship to Other Parts.

The provisions of this Part create an overlay zoning district which is applicable within floodplains in all other zoning districts established by this Chapter. To the extent the provisions of this Part are applicable and more restrictive, they shall supersede conflicting provisions within all other Parts of this Chapter and all other ordinances of the Borough of Akron. However, all other provisions of all other Parts of this Chapter and all other ordinances of the Borough of Akron shall remain in full force.

(*Ord. 12-8-97A*, 12/8/1997, §1405)

§27-1406. Permitted Uses.

The following uses and no others are permitted in the FP-Floodplain District, and they are permitted only if done under and in accordance with the provisions of the Clean Streams Law of Pennsylvania, 35 P.S. §691.1 *et seq*., as amended; the rules and regulations of the Pennsylvania Department of Environmental Protection; §27-1408 and §27-1410 of this Part; and all other applicable provision of this Chapter: [*Ord. 00027*]

A. Agriculture, horticulture, and forestry, ell excluding any structures, and excluding any grading or filling which would cause any increase in flood heights or frequency.

B. Erosion and sedimentation control measures, facilities, and structures, provided no increase in flood heights or frequency, unhealthful ponding, or other unsanitary conditions shall occur.

C. Public and private recreational uses such as parks, swimming areas (excluding swimming pools), play areas, day camps, campgrounds (excluding camp sites) picnic groves, lawns, gardens, golf courses, driving ranges, archery ranges, game farms, areas or clubs for hunting, fishing, and/or boating (including marker or anchor buoys), paved bicycle maths, and hiking and horseback riding trails, all

excluding any structures, and excluding any grading or filling which would cause any increase in flood heights or frequency.

D. Harvesting of any wild crop, such as marsh hay, ferns, moss, berries, tree fruits and seeds, or wild rice, excluding any plants appearing on the latest edition of the United States List of Endangered and Threatened Plant Species maintained by the United States Fish and Wildlife Service.

E. Activities related to the preservation of natural amenities, including wildlife sanctuaries, nature preserves, woodland preserves botanical gardens, or arboretums, excluding any structures, and excluding any structures, and excluding any grading or filling which would cause any increase in flood heights or frequency.

F. Open space and front, side, or rear yards required by other Parts of this Chapter. Floodplain land may be used to meet minimum open space, yard, and lot area requirements, provided that the purpose and intent of this Part, together with the requirements of any other pertinent municipal regulations, is complied with; if such compliance cannot be shown, the land areas within the FP - Floodplain District shall not be used or calculated for purposes of meeting lot open space, area, or yard requirements.

G. Stream improvements whose sole purpose is to improve aquatic life habitat, and which are approved by the Pennsylvania Fish Commission and reviewed by the Lancaster County Conservation District, and subject to the provisions of §27-1410.2.C of this Part.

H. One or two-strand fences.

I. Picnic tables, park benches, fireplaces and grills, and playground equipment, all if anchored to prevent flotation.

J. Blinds for the shooting or observation of wildlife, provided that such blinds may only be placed, erected, and maintained during the open season established by the Pennsylvania Game Commission for the taking of migratory waterfowl and the 3 weeks immediately preceding and 3 weeks immediately following that open season. Blinds must be removed during all other times of the year.

K. Circuses, carnivals, and similar transient enterprises, provided that natural vegetative ground cover is not destroyed, removed, or covered in such a way as to create erosion or sedimentation.

L. Farm ponds which are constructed in accordance with a Conservation Plan reviewed by the Lancaster County Conservation District and which do not create any increase in flood heights or frequency, and subject to the provisions of §27-1410.2.C of this Part.

M. Floodproofing and flood hazard reduction structures to protect only lawfully existing and registered nonconforming structures and lawfully existing and registered nonconforming uses within structures.

N. Public utility facilities (except buildings) under the exclusive jurisdiction of the Pennsylvania Public Utility Commission and specifically exempted from control by municipal zoning ordinances, subject to the provisions of §27-1410.7 of this Part.

O. Marker buoys.

P. SWMO [Chapter 17] facilities. [*Ord. 00076*]

(*Ord. 12-8-97A*, 12/8/1997, §1406; as amended by *Ord. 00027*, 4/11/2005, §A; and by *Ord. 00076*, 4/14/2014, §15)

§27-1407. Special Exception Uses and Variances.

1. The following uses are permitted in the FP - Floodplain District only when special exceptions are granted by the Zoning Hearing Board as provided for herein when permitted by the underlying zoning district as permitted uses or special exception uses, and when done under and in accordance with the provisions of the Clean Streams Law of Pennsylvania, 53 P.S. §691.1 *et seq*., as amended, the rules and regulations of the Pennsylvania Department of Environmental Protection, and all other provisions of this Chapter: [*Ord. 00027*]

A. Parking lots, loading areas, driveways, and aircraft landing strips and taxiways, if they are water-permeably surfaced, and if they are consistent with the provisions of §27-1406.N of this Part, except that parking lots for hotels, motels, and other transient lodgings are prohibited.

B. Water-oriented uses such as docks, piers, wharves, marinas, boat liveries, and boat launching ramps.

C. Public utility facilities not under the exclusive jurisdiction of the Pennsylvania Public Utility Commission, subject to the following conditions:

(1) Facilities such as pipelines, gas lines, storm sewers, sanitary sewers, water lines, outlet installations for sewage treatment plants, sealed public and private water supply wells, pumping stations, and underground communications facilities, shall, together with associated structures, but excepting necessary vents, be designed and installed underground so as to be at or below the existing natural surface grade within the floodplain, and in such a manner as will prevent flotation, minimize or eliminate flood damage, and not alter the cross-sectional area of the floodplain. All new or replacement water supply facilities and/or sanitary sewage facilities shall be designed to minimize or eliminate infiltration of floodwaters into the facilities and discharges from the facilities into floodwaters. All gas lines shall have a system of shut-off valves for service to the FP - Floodplain District to allow positive control during flood emergencies.

(2) Electrical distribution lines and supporting structures shall be installed so as to minimize or eliminate flood damage, and all lines of less than 15 kilovolts shall be installed underground below the existing natural surface grade within the floodplain. Above ground electrical distribution and transmission lines of 15 kilovolts or more may be allowed above ground as a special exception, provided they are certified by a licensed professional engineer registered by the Commonwealth of Pennsylvania as meeting all of the following standards:

(a) Above ground lines and supporting structures shall enter the FP - Floodplain District only to cross a watercourse, shall cross the watercourse and the FP - Floodplain District using the most direct and shortest route possible consistent with the goals, objectives, purposes and intents of this Chapter, shall make the minimum number of crossings necessary, and

shall be designed and installed so as to minimize or eliminate flood damage.

(b) Above ground lines shall be elevated so that their lowest portions are a minimum of 10 feet above the maximum flood elevation.

(c) Supporting structures for above ground lines within the FP - Floodplain District shall be the minimum number necessary to carry the lines across the FP - Floodplain District. Supporting structures shall be designed and installed so as to be able to withstand the maximum volume, velocity, and force of floodwaters which can be expected at the point where they are located.

(d) Facilities and services in the FP - Floodplain District shall be designed so that flood damage within the district does not disrupt service outside the district.

D. Fish hatcheries, including uncovered ponds and raceways, which are approved by the Pennsylvania Fish Commission, but excluding other structures.

E. Water monitoring devices.

F. Culverts, bridges, and approaches to public and private culverts and bridges which meet all of the following conditions:

(1) Review and/or approval by the Lancaster County Planning Commission, if required.

(2) Approval by the Susquehanna River Basin Commission, if required.

(3) Approval by the Pennsylvania Department of Environmental Protection, if required. [*Ord. 00027*]

(4) Approval by the United States Army Corns of Engineers, if required.

(5) Approval by the Pennsylvania Department of Transportation (PennDOT), if required.

(6) If approval by PennDOT is not required, the proposed use must still meet all of the appropriate minimum design standards of PennDOT.

(7) The proposed structure must be designed in such a way as 'to have the capacity to alloy the unrestricted passage of waters of maximum flood elevation below and through it without any upstream or downstream increase in water surface elevation.

G. Extraction of sand, gravel, and other mineral resources, excluding topsoil.

H. Other uses similar to the above, provided the use will not reduce the cross-sectional area of the floodplain.

2. *Standards and Criteria for Special Exceptions*. In hearing and deciding upon special exceptions to be granted or denied under the provisions of this Part, the Zoning Hearing Board shall determine that the following standards and criteria have been complied with:

A. That danger to life and property due to increased flood heights, velocities, or frequencies caused by encroachments is minimized.

B. That the danger that floodwaters or materials may be swept onto other lands or downstream to cause injury to others is minimized.

C. That the possibility of disease, contamination and unsanitary conditions, is minimized, and especially that any proposed water supply or sanitation systems are able to prevent these problems.

D. That the susceptibility of the proposed facility and its contents to flood damage, the effect of such damage on the individual owners, and the need for and effect of floodproofing, are minimized.

E. That the proposed facility and its services are important to the community.

F. That the proposed facility needs a waterfront or floodplain location.

G. That there are no available alternate locations not subject to flooding for the proposed use.

H. That the proposed use is compatible with existing and anticipated development.

I. That the proposed use is consistent with the Borough of Akron Comprehensive Plan and any floodplain management program for the area.

J. That the safety of access to the property in times of flooding for ordinary and emergent vehicles is assured.

K. That the expected area, height, depth, velocity, pressure, frequency, duration, rate of rise, seasonality, and sediment, debris, and pollutant load of floodwaters expected at the site is not inconsistent with the proposed use.

L. That the proposed activity will not unduly alter natural water flow or water temperature.

M. That archeological or historic sties and structures, endangered or threatened species of animals or plants, high quality wildlife habitats, scarce vegetation types, and other irreplaceable land uses will not be degraded or destroyed.

N. That the natural, scenic, and aesthetic values at the proposed site will be conserved.

O. That the danger, damage, and injury to all adjoining properties on both sides of any watercourse regardless of municipality, is minimized. In this regard, any proposal affecting an adjacent municipality's planning commission and governing body for review and comment.

P. That the granting of the special exception will not result in any of the following:

(1) Increases in flood heights.

(2) Additional threats to public safety.

(3) Extraordinary public expense.

(4) Creation of nuisances.

(5) Fraud or victimization of the public.

(6) Conflict with local laws or ordinances.

Q. That the granting of the special exception shall not violate the SWMO [Chapter 17] or the SALDO [Chapter 22]. [*Ord. 00076*]

3. In hearing and deciding upon special exceptions to be granted or denied under

the provisions of this Part, the burden of proof shall be on the applicant. The Zoning Hearing Board may require the applicant to submit such plans, specifications, and other information as it may deem necessary to assist it in arriving at a fair and impartial determination. Such required information may include, but is not limited to, the following:

A. Plans drawn to scale showing the nature, location, dimensions, and elevations of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures, and the relationship of the above to the location of the channel.

B. A typical valley cross-section showing the channel of the watercourse, elevations of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.

C. A plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and elevations of street water supply facilities, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types; and other pertinent information.

D. A profile showing the slope of the bottom of the channel or flow line of the watercourse.

E. Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply facilities and sanitary facilities.

4. In hearing and deciding upon special exceptions to be granted or denied under the provisions of this Part, the Zoning Hearing Board shall solicit the comments and recommendation of the Borough of Akron Planning Commission, and any other experts or authorities it may deem necessary to assist it in arriving at a fair and impartial determination.

5. In granting any special exception, the Zoning Hearing Board 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.

6. *Fees for Special Exceptions*. Any fees assessed an applicant for a special exception, whether for a hearing, a flood study, or any other purpose shall not exceed those costs directly associated with the particular application.

7. *Variances*. Variances from the provisions of this Part are discouraged. Where, however, a variance is essential, the following requirements of the National Flood Insurance Program must be complied with in addition to all other variance provisions of this Chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq*., as amended. In all variance proceedings the burden of proof shall be on the applicant.

A. No variance shall be granted for any development, structure, use, or activity within the FP - Floodplain District which would cause any increase in flood as defined by §27-1403.1.A of this Part.

B. Variances shall only be granted upon:

(1) A showing of good and sufficient cause.

(2) A determination that failure to grant the variance would result in

exceptional hardship to the applicant.

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with any other applicable laws, ordinances, or regulations.

(4) A determination that the granting Of a variance will not jeopardize the Borough of Akron's participation in the National Flood Insurance Program.

C. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering that flood hazard, to afford relief.

D. Whenever a variance is granted, the Board shall notify the applicant in writing that:

(1) The granting of the variance may result in increased premium rates for flood insurance.

(2) Such variance may increase the risks to life and property.

E. A complete record of all variance requests and actions, including justifications for granted variances, shall he maintained by the Board.

F. Proof shall be presented that the variance will not violate the SWMO [Chapter 17] or SALDO [Chapter 22]. [*Ord. 00076*]

(*Ord. 12-8-97A*, 12/8/1997, §1407; as amended by *Ord. 00027*, 4/11/2005, §A; and by *Ord. 00076*, 4/14/2014, §§16, 17)

§27-1408. Prohibited Uses.

The following uses are prohibited in the FP - Floodplain District:

A. All uses prohibited either expressly or implicitly in the underlying zoning district for the land in question.

B. All structures, with the exception of those specifically allowed in §§27-1406 and 1407 of this Part.

C. Sanitary landfills, dumps, junk and salvage yards, and outdoor storage of vehicles and/or materials.

D. Placing, depositing, or dumping any spoil, fill, or solid waste, except such grading or filling necessary to accomplish and carry out those uses permitted in §§27-1406 and 27-1407 of this Part; provided, however, that no grading or filling is permitted which would cause any increase in flood heights or frequency.

E. Removal of topsoil, excluding sod production and nursery activities as allowed in §§27-1406 and 27-1407 of this Part, and excluding such grading or filling necessary to accomplish and carry out those uses which are permitted in §§27-1406 and 27-1407 of this Part; provided, however, that no grading of filling is permitted which would cause any increase in flood heights or frequency.

F. Damming or relocation of any watercourse, except as provided for in §§27-1406 and 27-1407 of this Part.

G. Any parts of any on-site sewage disposal systems.

H. Swimming pools.

I. Fences, except one or two-strand fences.

J. Stockpiling, storage, or disposal of buoyant materials, logging slash, herbicides, pesticides, domestic or industrial waste, radioactive materials, petroleum or other flammable materials, explosives, poisonous materials, hazardous materials, or other materials which, if flooded, would pollute the watercourse or be injurious to human, animal, or plant life.

K. Cemeteries for humans or animals.

L. Zoo, menagerie, wild animal farm, or domestic or farm animal enclosures which will not allow all animals to escape floodwaters of maximum flood elevation without human intervention while remaining safely confined.

M. The floodproofing of new residential structure.

N. Any development, structure, or use which may, whether alone or in combination with others, and except where specifically authorized elsewhere in this Part:

(1) Endanger human life.

(2) Obstruct, impede, retard, change, or increase the velocity, direction, or flow of floodwaters.

(3) Increase the surface elevation of floods, or the frequency of floods.

(4) Catch or collect debris carried by floodwaters.

(5) Be placed where the natural flow of the stream or floodwaters will carry it downstream to the damage or detainment of property within or adjacent to the FP - Floodplain District.

(6) Degrade the water carrying capacity of any watercourse, channel, or floodplain.

(7) Increase the rate of local runoff, erosion, or sedimentation.

(8) Degrade the duality of surface water or the quality or quantity of ground water.

(9) Be susceptible to flotation and subsequent movement which would cause damage to other property.

(10) Create unhealthful ponding or other unsanitary conditions.

(11) Not be in harmony with the intent and purpose of this Part, as set forth in §27-1401 of this Part.

O. Feedlots.

P. Fully enclosed spaces below lowest floor. [*Ord. 00027*]

Q. Partially enclosed space below lowest floor. [*Ord. 00027*]

R. Any new or substantially improved structure which:

(1) Will be used for the production or storage of any of the following dangerous materials or substances.

(2) Will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises.

(3) Will involve the production, storage, or use of any amount of any amount of radioactive substances.

(4) The provisions of this Section shall apply in addition to all other applicable provisions.

(5) The following list of materials and substances are considered dangerous to human life:

(a) Acetone.

(b) Ammonia.

(c) Benzene.

(d) Calcium carbide.

(e) Carbon disulfide.

(f) Celluloid.

(g) Chlorine.

(h) Hydrochloric acid.

(i) Hydrocyanic acid.

(j) Magnesium.

(k) Nitric acid and oxides of nitrogen.

(l) Petroleum products (gasoline, fuel oil, etc.).

(m) Phosphorous.

(n) Potassium.

(o) Sodium.

(p) Sulphur and sulphur products.

(r) Pesticides (including insecticides, fungicides, and rodenticides).

(s) Radioactive substances, insofar as such substances are not otherwise regulated.

(6) The commencement of any of the following activities; or the construction enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:

(a) Hospitals.

(b) Nursing homes.

(c) Jails or prisons.

(7) The commencement of, or any construction of a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

(8) Substantial improvements to existing buildings unless a special exception is issued.

[*Ord. 00027*]

(*Ord. 12-8-97A*, 12/8/1997, §1408; as amended by *Ord. 00027*, 4/11/2005, §D)

§27-1409. Nonconforming Uses and Structures in the FP-Floodplain District.

1. *Continuation*. All uses or structures lawfully existing in the FP - Floodplain District on the effective date of this Part which are not in conformity with the provisions of this Part shall be deemed nonconforming uses or structures. Such nonconforming

uses or structures may be continued, maintained, repaired, and floodproofed, except as otherwise provided for in this Part. However, such nonconforming uses or structures may at any time be improved to comply with existing Pennsylvania or the Borough of Akron's health, sanitary, or safety code specifications which are necessary solely to assure safe living conditions.

2. *Abandonment*. Nonconforming uses or structures which have been discontinued or vacated for 12 consecutive months shall be considered abandoned. Vacation of land or structures or the nonoperative status of the use normally carried on by the property shall be evidence of discontinuance. No abandoned use or structure may be reestablished, repaired, or reoccupied. The Akron Borough Council may require the removal of any abandoned nonconforming use or structure upon proper notice to the owner of the property on which an abandoned nonconforming use or structure exists. If the owner has not completely removed the abandoned use or structure with a reasonable amount of time, not to exceed 9 months, The Borough of Akron shall have the authority to itself cause the removal to be accomplished, the costs of such removal to be paid by the property owner.

3. *Expansion and Modification*. A nonconforming use or structure may not be expanded or modified in any manger which would increase or aggravate flooding or flood hazards. Nothing shall be done which would otherwise violate any of the provisions of this Part. No nonconforming use or structure shall be expanded, enlarged, or altered in any way which increases its nonconformity with respect to height, area, yard, and other requirements established in other Parts of this Chapter, nor in any way which causes it to occupy more space within the FP - Floodplain District that was occupied by it on the effective date of this Part. All such expansions and modifications shall comply with the SWMO [Chapter 17] and SALDO [Chapter 22]. [*Ord. 00076*]

4. *Replacement and Rebuilding*.

A. A nonconforming use or structure may be replaced, repaired, or rebuilt if it is damaged or destroyed by any means, including floods, to the extent of less than 50 percent of its fair market value at the time of its damage or destruction. In such a case, however, the nonconformity of the new use or structure with respect to requirements as expressed in provisions of this Chapter shall not exceed that of the original use or structure which was damaged or destroyed. Nothing shall be done which would otherwise violate any of the provisions of this Part.

B. A nonconforming use or structure which has been damaged or destroyed by any means, including floods, to the extent of 50 percent or more of its fair market value at the time of its damage or destruction may not be replaced, restored, repaired, reconstructed improved, or rebuilt in any way other than in complete conformity and full compliance with the provisions of this Part, all other Parts of this Chapter, and all other ordinances of The Borough of Akron. The Zoning Hearing Board may waive, as a special exception, the requirements of this subsection where it is shown that such requirements could not be met on land owned by the appellant or where such requirements would impose undue hardship to the appellant in the efficient operation of the premises. In such a case, the Zoning Hearing Board shall be authorized to grant only the minimum relief necessary, and the least modification possible of the provisions of this Part while respecting and maintaining the purposes and intents of this Part.

C. The Zoning Officer shall have the initial responsible of determining the percent of damage or destruction and the fair market value of the damaged or destroyed use or structure at the time of its damage or destruction, and may call on any experts or authorities he may deem necessary to assist him in arriving at a fair and impartial determination. Appeals of the decision of the Zoning Officer may be made to the Zoning Hearing Board.

D. All replacements and rebuildings shall in all respects comply with the SWMO [Chapter 17] and SALDO [Chapter 22]. [*Ord. 00076*]

5. *Historic Structures*. The Zoning Hearing Board shall have the right to waive, as a special exception, any of the requirements of this Section and §27-1410 for any structure listed on the National Register of Historic Places or the Pennsylvania Register of Historic Sites and Landmarks, and the provisions of §27-1407.5 of this Part shall be applied in such a case.

(*Ord. 12-8-97A*, 12/8/1997, §1409; as amended by *Ord. 00076*, 4/14/2014, §§18, 19)

§27-1410. Design and Performance Standards.

1. *Applicability*. Unless otherwise specified in this Part, the standards and criteria included in this Section are to be used, together with the provisions of all other Parts and all other ordinances in force in the Borough of Akron by the Zoning Officer and Zoning Hearing Board in their administration of this Part.

2. *Regulations and Reviews by Other Agencies*.

A. Where applicable and where possible, all necessary permits or other written approvals must be obtained from all other agencies before any approvals of plans, special exceptions, variances, or permits may be granted by the Borough of Akron or its agencies officials, or employees.

B. Where necessary Permits or written approvals from other agencies cannot be obtained prior to action by the Borough of Akron, any approval of plans, special exceptions, variances, or permits by the Borough of Akron or its agencies, officials, or employees shall be conditioned upon receiving such other agencies permits or written approvals.

C. No regulations of the Commonwealth governing watercourses are amended or repealed by this Chapter. Prior to any proposed alteration or relocation of any watercourse a permit shall be obtained from the Pennsylvania Department of Environmental Protection, and notification of any such proposal shall be given to all affected adjacent municipalities. Copies of such permit application and municipal notifications shall be forwarded to the Federal Insurance Administration and to the Pennsylvania Department of Community Affairs. [*Ord. 00027*]

3. *Placement and Construction of Authorized Uses and Structures*.

A. All uses and structures shall be designed, constructed and placed so as to offer the minimum obstruction possible to the flow of water, and shall be designed to have a minimum effect upon the flow, velocity, or height of floodwaters. Whenever possible, structures shall be placed approximately on the same flood flow lines as those of nearby structures.

B. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

C. All new or replacement drains, water supply facilities, or sanitary sewage facilities shall be designed to preclude infiltration or back-up of sewage or floodwaters.

D. All new construction and substantial improvements of permanent nonresidential structures shall either (1) have the lowest floor (including basement) elevated to 1 foot above the 100-year flood elevation as defined by §27-1403.1.A of this Chapter, or (2) together with attendant utility and sanitary facilities, be floodproofed so that below 1 foot above the 100-year flood elevation as defined by §27-1402.1 of this Chapter the structure is watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

E. All authorized improvements or additions to existing residential structures shall, to the greatest extent Possible, be elevated. Any portion of the structure not elevated to 1 foot above the 100-year flood elevation as defined by §27-1403.1.A of this Chapter shall be floodproofed.

F. All authorized new residential structures shall have the lowest floor (including basement) elevated to 1 foot above the 100-year flood elevation as defined by §27-1403.1.A of this Chapter.

4. *Floodproofing*. Where flood-proofing is authorized by this Part it shall be done according to the standards and provisions for floodproofing classes W-1, W-2, W-3, or W-4, as contained in *Flood-Proofing Regulations* published by the Office of the Chief of Engineers, U. S. Army, publication EP 1165 2 314 (June 1972 and as subsequently amended) where such standards and provisions do not conflict with other provisions of this Part. Where reference is made in Flood-Proofing Regulations to the "RFD" (Regulatory Flood Datum) it shall be interpreted to mean the 100-year flood elevation as defined by this Part. The flood-proofing of new residential structure is specifically prohibited.

5. *Anchoring*. All structures, including buildings, air ducts, large pipes, and storage tanks, within the FP-Floodplain District shall be firmly anchored to prevent flotation, movement, or collapse, thus reducing the possibility of the blockage of bridge openings and other restricted sections of the watercourse.

6. *Surface Drainage*. Adequate drainage shall be provided for all new development to reduce exposure to flood hazards.

7. *Public Utility Facilities and Structures*. Public utility facilities and structures (except buildings) subject to the jurisdiction of the Pennsylvania Public Utility Commission are requested to comply with the following standards in the interest of achieving the purpose and intent of this Part:

A. Public utility facilities and associated structures such as pipelines, gas lines, storm sewers, sanitary sewers, water lines, outlet installations for sewage treatment plants, sealed public and private water supply wells, pumping stations, and underground communications facilities, should except for necessary vents, be designed and installed underground so as to be at or below the existing natural surface grade within the floodplain, and in such a manner as will prevent flotation, minimize or eliminate flood damage, and, not alter the cross-sectional area of the floodplain. All new or replacement water supply facilities and/or sanitary sewage facilities should be minimized or eliminate infiltration of floodwaters into the

facilities into floodwaters. All gas lines should have a system of shut-off valves for service to the FP - Floodplain District to allow positive control during flood emergencies.

B. Public utility electrical distribution lines and supporting structures should be installed so as to minimize or eliminate flood damage and be installed underground below the existing natural surface grade within the floodplain. Above ground electrical transmission lines should be designed to meet the following standards:

(1) Above ground lines and supporting structures should enter the FP-Floodplain District only to cross a watercourse and the FP - Floodplain District using the most direct and shortest route possible consistent with the goals, objectives, purposes, and intents of this Chapter, should make the minimum number of crossings necessary, and should be designed and installed so as to minimize or eliminate flood damage.

(2) Above ground lines should be elevated so that their lowest portions are a minimum of 10 feet above the maximum flood elevation.

(3) Supporting structures for above ground lines within the FP-Floodplain District should be the minimum number necessary to carry the lines across the FP-Floodplain District. Supporting structures should be designed and installed so as to be able to withstand the maximum volume, velocity, and force of floodwaters which can be expected at the point where they are located.

(4) Facilities and service in the FP-Floodplain District should be designed so that flood damage within the district does not disrupt service outside the district.

8. *Agricultural Standards*.

A. A filter strip is required between any watercourse and any tilled land. Such strip shall be a minimum of 15 feet in width measured from the bank of the watercourse channel. The filter strip shall be planted and maintained in grass.

B. Within the FP-Floodplain District, a cover crop, such as annual rye grass, is required whenever the land is not being tilled for major crops.

C. Livestock shall not be confined in pastures or other enclosures located entirely within the FP-Floodplain District (see §27-1408)

D. Within the FP-Floodplain District, feedlots are prohibited.

9. *Uniform Construction Code Coordination*. The standards and specifications contained 34 Pa.Code, (Chapters 401-405) as amended and not limited to the following provisions shall apply to the above and other Sections and subsections this Chapter, to the extent that they are more restrictive and/or supplement the requirements of this Chapter.

A. International Building Code (IBC) 2003 or the latest edition thereof:

(1) §§801, 1202, 1403, 1603, 1605, 1612, 3402 and Appendix G.

B. International Residential Code (IRC) 2003 or latest edition thereof:

(2) §§R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

10. *SWMO [Chapter 17] and SALDO [Chapter 22].* The standards and specifications contained in the SWMO [Chapter 17] and SALDO [Chapter 22] shall apply. [*Ord. 00076*]

(*Ord. 12-8-97A*, 12/8/1997, §1410; as amended by *Ord. 00027*, 4/11/2005, §A; and by *Ord. 00076*, 4/14/2014, §20)

§27-1411. Building Permits.

1. Irrespective of other provisions of this Chapter within the FP - Floodplain District building permits shall be required for all proposed development, construction, reconstruction, placement, expansion, renovation, extension, repair, or other improvement of uses or structures, regardless of value, including the placement of mobile homes and activities such as mining, dredging, filling, grading, logging, paving, excavation, or drilling operations. Building permits shall not be required for normal maintenance.

2. Every building permit application for work or uses within the FP - Floodplain District shall include or be accompanied by all information necessary for the Zoning Officer to determine that the proposal meets all of the provisions of this Part and this Chapter.

3. The following information is specifically required to accompany all building permit applications involving structures within the FP - Floodplain District:

A. The elevation (in relation to mean sea level) of the lowest floor (including basement).

B. Whether or not the structure includes a basement.

C. If the structure has been floodproofed, the elevation (in relation to mean sea level) to which the structure was floodproofed.

D. Site location including address. [*Ord. 00027*]

E. Brief description of proposed work and estimated costs, and where work involves a previously existing building, including a breakout of the flood-related costs of market value of the building before the flood damage occurred. [*Ord. 00027*]

F. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of "repetitive loss" shall be undertaken only in full compliance with the provisions of this Chapter. [*Ord. 00027*]

4. Where floodproofing is proposed to be utilized for a particular structure, the building permit application shall be accompanied by a document certified by a licensed professional engineer registered by the Commonwealth of Pennsylvania or a licensed professional architect registered by the Commonwealth of Pennsylvania certifying that the floodproofing methods used meet the provisions of §27-1410.4 of this Chapter and are adequate to withstand the flood depths, pressures, velocities, impact, uplift forces, and other factors associated with the 100-year flood as defined by §27-1403.1.A of this Part, and indicating the specific elevation (in relation to mean sea level) to which such structure is floodproofed.

5. A copy of all plans and applications for proposed construction or other improvements within the FP - Floodplain District to be considered for approval may be submitted by the Zoning Officer to any other appropriate agencies and/or individuals for review and comma.

(*Ord. 12-8-97A*, 12/8/1997, §1411; as amended by *Ord. 00027*, 4/11/2005, §C)

§27-1412. Municipal Liability.

The lawful granting of a permit or making of any other administrative decision under this Part shall not constitute a representation, guarantee, or warranty of any kind by the Borough of Akron, or by any official, agent, or employee thereof, of the practicability or safety of any structure, use, or other plan proposal with respect to damage from flood or otherwise, and shall create no liability upon, or a cause of action against, such public body, official, agent, or employee for any flood damage that may result pursuant thereto or as a result of reliance on this Part. There is also no assurance that lands not included in the FP-Floodplain District are now or ever will be free from flooding or flood damage.

(*Ord. 12-8-97A*, 12/8/1997, §1412)

Part 15

Administrative Proceedings; Zoning Hearing Board and Borough Council

§27-1501. Zoning Hearing Board.

There is hereby created a Zoning Hearing Board which shall, for the purpose of this Chapter, be referred to as the "Board." The membership of the Board shall consist of three residents of the Borough appointed by resolution of the Borough Council. The terms of office of the Board members shall be 3 years and they shall be appointed and vacancies shall be filled pursuant to the provisions of the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq*.

(*Ord. 12-8-97A*, 12/8/1997, §1501)

§27-1502. Organization.

The Zoning Hearing Board shall adopt such rules and regulations to govern its procedures as it may deem necessary. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. Meetings of the Board shall be at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or in the Chairperson's absence, the acting Chairperson may administer oaths and compel the attendance of witnesses. 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 to conduct any hearing on its behalf. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent, or failing to vote, indicating such fact. The Board shall keep full public records of its business at the Borough Municipal Building, which shall be the property of the Borough, and shall submit a report of its activities to the Borough Council once a year.

(*Ord. 12-8-97A*, 12/8/1997, §1502)

§27-1503. Notices.

1. *Notice*. Written notices of all hearings by the Zoning Hearing Board or Borough Council, as appropriate in accordance with the respective functions, shall be given as follows:

A. Two copies to the applicant. The applicant shall cause one of such copies of the notice to be posted upon the premises which are the subject of the hearing at least 10 days prior to the hearing and to cause the same to remain so posted until the date of the hearing. However, the failure to cause the same to be so posted or to remain posted shall not be subject to protest except as the initial matter in the hearing by the protestant. Otherwise, it shall be conclusively presumed that the notice was so posted and remains so posted.

B. One copy thereof to each Council person of the Borough.

C. One copy thereof each to the Zoning Officer and Borough Secretary.

D. A copy thereof to each member of the Planning Commission of the

Borough.

E. A copy thereof to each member of the Zoning Hearing Board or Borough Council, as appropriate in accordance with the respective functions.

F. A copy thereof to any person who has filed a request with the Council of the Borough for such notices at least 5 days prior to the hearing, whether as a request generally or merely for that particular meeting, whichever is applicable.

G. A copy thereof for the Solicitor of the Borough.

H. To all persons owning property situated within 100 feet of the premises which are the subject matter of the hearing.

2. *Public Notice*. Public notice of all hearings shall also be published each week for 2 successive weeks in a newspaper of general circulation in the Borough or as required by the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq*. A copy of the public notice shall also be posted at the Borough Hall.

3. *Fees*. Fees to be paid by persons requesting notice shall be set from time to time by resolution of the Council.

4. *Failure to Give Notice*. Failure to give notice to any of the parties to whom notice is directed by this Chapter shall not void any hearing. Notice shall be presumed to have been given under this Chapter when certified to by the Secretary of the Zoning Hearing Board or Borough Council, as appropriate in accordance with the respective functions, or by the Solicitor of the Borough or any other person responsible for giving such notice. Any objections to such certificate shall be presented as a first item of business at any hearing for which notice was given. If not presented at that time, notice shall be conclusively presumed to have been given to the parties entitled to same hereunder.

5. *Purpose of Notice*. The provision herein for notice shall not be deemed to be a prerequisite for a valid hearing. It is the intent of this Chapter to direct notice as a convenience to those named but not to establish any prerequisite to a valid hearing, such prerequisites being limited to those established by the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq*., or decision of a court of record.

(*Ord. 12-8-97A*, 12/8/1997, §1503)

§27-1504. Hearings.

The Board or Borough Council, as appropriate in accordance with the respective functions, shall conduct hearings and make decisions in accordance with the following requirements:

A. The hearing shall be held in compliance with the provisions of the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq*.

B. The hearings shall be conducted by the Board or Borough Council, as appropriate in accordance with the respective functions, or the Board or Borough Council, as appropriate in accordance with the respective functions, may appoint a hearing officer. The decision or, where no decision is called for, the findings shall be made by the Board or Borough Council, as appropriate in accordance with the respective functions; however, the appellant or the applicant, 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 or Borough Council, as appropriate in accordance

with the respective functions, and accept the decision or findings of the hearing officer as final.

C. A court stenographer shall have the power to administer oaths. Additionally, the Chairperson or acting Chairperson of the Board or Borough Council, as appropriate in accordance with the respective functions, or the hearing officer presiding, shall have power to administer oaths.

(*Ord. 12-8-97A*, 12/8/1997, §1504)

§27-1505. Jurisdiction of the Zoning Hearing Board.

The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

A. 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), 53 P.S. §§10609.1, 10916.1(a)(2).

B. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within 30 days after the effective date of said ordinance.

C. Appeals from the determination of the Zoning Officer including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, or the issuance of any cease and desist or similar order.

D. Applications for variances from the terms of this Chapter or such provisions within a land use ordinance.

E. Applications for special exceptions under this Chapter or such provisions within a land use ordinance.

F. Appeals from the Zoning Officer's determination under §916.2 of Act 247, 53 P.S. §10916.2, as amended.

G. Appeals to be held in the nature of special exceptions, pursuant to §27- 302 hereof.

H. Any other proceeding authorized or required by the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq*.

(*Ord. 12-8-97A*, 12/8/1997, §1505)

§27-1506. Functions of the Zoning Hearing Board.

1. *Variances*.

A. Section 910.2 of the Pennsylvania Municipalities Planning Code, 53 P.S. §10910.2, states the following:

(1) The board shall hear requests for variances where it is alleged that the provisions of this Chapter inflict unnecessary hardship upon the applicant. The board may by rule prescribe the form of application and may require preliminary application to the zoning officer. The board may grant a variance, provided that all of the following findings are made where relevant in a given 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 no 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, nor 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 granting any variance, the board may attached such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this act and this Chapter.

(3) The Board shall hear requests for Variances pursuant to the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq*.

2. *Special Exceptions*.

A. Where this Chapter has stated special exceptions to be granted or denied by the Zoning Hearing Board, the Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria.

B. Each applicant shall additionally bear the burden of proving for each use or structure compliance with the following:

(1) The suitability of the property for the use desired.

(2) That the proposed use will not have a substantial adverse effect upon congestion of streets and highways or upon traffic levels of service or any hazards arising therefrom. The Board may require the applicant to submit a traffic study prepared by a qualified traffic engineer to satisfy this requirement.

(3) That the proposed use will not have a substantial adverse effect on the availability of parking in the immediate area.

(4) That the proposed use will not have a substantial adverse effect on existing or proposed public water, public sewer, public transportation, police and fire protection, public recreation, school facilities, and other public organizations and systems.

(5) That the proposed use will not have a substantial adverse effect on the health and safety of the citizens of the Borough when such use may present a danger from fire, explosion, electrocution, pollution, asphyxiation, or other similar dangers.

(6) That the proposed use will not have a substantial adverse effect upon adjacent properties. Among any other effects on adjacent properties, proposed uses shall not inure or detract from the use or enjoyment or value of the adjacent properties.

(7) The compatibility of the proposed use with the appearance and general character of the immediate vicinity.

(8) The compatibility of the proposed use with the Borough's Comprehensive Plan.

(9) The proposed use shall be in the best interest of the Borough, and for the convenience of the community and shall not adversely affect the general welfare of the community.

C. The Board shall impose such reasonable conditions as it deems necessary to effect the intent and purpose of this Chapter and to protect the health, safety, and welfare of the citizens of the Borough, especially those citizens most directly affected by the proposed use. These conditions may include, but are not limited to, the following:

(1) Any promises or representations by the applicant with respect to its use or development of the property involved.

(2) (a) Hours of operation.

(b) Special or additional screening or buffering including, but not limited to, that for solid waste storage areas.

(c) The design and location of buildings and other structures.

(d) Restrictions on noise levels, lighting levels, odor, and other potentially noxious effects.

(e) Restrictions on the distances of the proposed use from adjacent properties and between buildings and structures.

(f) Restrictions on parking with respect to both number and location of vehicles or spaces.

(g) Public safety.

(h) Safeguarding of uses on adjacent properties.

(i) Health and sanitation.

(j) Hours for loading and unloading.

(k) Traffic, street and highway improvements and controls.

(*Ord. 12-8-97A*, 12/8/1997, §1506)

§27-1507. Parties Appellant Before the Board.

1. Appeals may be filed with the Board in writing by the landowner affected, any officer or agency of the Borough, or any person aggrieved.

2. Requests for a variance and for special exception may be filed with the Board

by any landowner or any tenant with the written permission of all landowners.

(*Ord. 12-8-97A*, 12/8/1997, §1507)

§27-1508. Effect on Board's or Borough Council's, as Appropriate in Accordance with the Respective Functions, Decision.

1. If the variance is granted or the issuance of a permit is finally approved, or other action by the appellant is authorized, the necessary permit shall be secured and the authorized action begun within 180 days after the date when the variance is finally approved or the other action by the appellant is authorized, and the building or alteration, as the case may be, shall be completed within 1 year of said date of consent. For good cause, the Board or Borough Council, as appropriate in accordance with the respective functions, may, upon application in writing stating the reasons therefore, extend either time period.

2. Should the appellant or applicant fail to obtain the necessary permits within said 180-day period or having obtained the permit should appellant or applicant fail to commence work thereunder within such 180-day period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn, or abandoned its appeal or its application, and all provisions, variances, and permits granted to appellant or applicant shall be deemed automatically rescinded by the Board or Borough Council, as appropriate in accordance with the respective functions.

3. Should the appellant or applicant commence construction or alteration within said 180-day period but fail to complete such construction or alteration within 1 year, the Board or Borough Council, as appropriate in accordance with the respective functions, may, upon 10 days notice in writing, rescind, or revoke the granted variance or the issuance of the permit or permits or any other action authorized to the appellant or applicant, if the Board or Borough Council, as appropriate in accordance with the respective functions, finds that no good cause appears for the failure to complete such construction or alteration within said 1-year period and if the Board or Borough Council, as appropriate in accordance with the respective functions, further finds that conditions have so altered or changed in the interval since the granting of the variance, permit, or action, that revocation or rescission of the action is justified.

(*Ord. 12-8-97A*, 12/8/1997, §1508)

§27-1509. Jurisdiction of the Borough Council.

The Borough Council shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

A. Applications for curative amendments to this Chapter.

B. All petitions for amendments to land use ordinances. 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.

C. Any other proceeding authorized or required by the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq*.

D. Applications for Conditional Uses. [*Ord. 99005*]

(*Ord. 12-8-97A*, 12/8/1997, §1509; as amended by *Ord. 99005*, 7/12/1999, §1.E)

§27-1510. Functions of Borough Council in Regard to Conditional Use Applications.

1. *Statutory Basis*. Section 913.2 of the Pennsylvania Municipalities Planning Code states the following:

"Where the governing body, in this Chapter, has stated conditional uses to be granted or denied by the governing body pursuant to express standards and criteria, the governing body shall hold hearings on and decide requests for such conditional uses in accordance with such standards and criteria. In granting a conditional use, the governing body may attach such reasonable conditions and safeguards, in addition to those expressed this Chapter, as it may deem necessary to implement the purposes of this act in this Chapter."

2. *Conditional Use Procedures and Burdens*.

A. Where this Chapter has stated Conditional Uses to be granted or denied by the Borough Council, the Borough Council shall hear and decide requests for such conditional uses in accordance with such standards and criteria.

B. Each applicant shall additionally bear the burden of proving for each use or structure compliance with the following:

(1) The suitability of the property for the use desired.

(2) That the proposed use will not have a substantial adverse effect upon congestion of streets and highways or upon traffic levels of service or any hazards arising therefrom. The applicant shall submit a traffic study prepared by a qualified traffic engineer to satisfy this requirement.

(3) That the proposed use will not have a substantial adverse effect on the availability of parking in the immediate area.

(4) That the proposed use will not have a substantial adverse effect on existing or proposed public water, public sewer, public transportation, police and fire protection, public recreation, school facilities, and other public organizations and systems.

(5) That the proposed use will not have a substantial adverse effect on the health and safety of the citizens of the Borough when such use may present a danger from fire, explosion, electrocution, pollution, asphyxiation, or other similar dangers.

(6) That the proposed use will not have a substantial adverse effect upon adjacent properties. Among any other effects on adjacent properties, proposed uses shall not inure or detract from the use or enjoyment or value of the adjacent properties.

(7) The compatibility of the proposed use with the appearance and general character of the immediate vicinity.

(8) The compatibility of the proposed use with the Borough's Comprehensive Plan.

(9) The proposed use shall be in the best interest of the Borough, and for the convenience of the community and shall not adversely affect the general welfare of the community.

C. Any master development plan presented in support of the conditional use

pursuant to this Section shall become an official part of the record for said conditional use. Approval of any conditional use will also bind the use in accordance with the submitted master development plan; should a more than insubstantial change in the master development plan be required as part of the approval of the use, the applicant shall revise the master development plan prior to issuance of a use and occupancy permit. Any more than insubstantial change to the use on the subject property not reflected on the originally approved master development plan shall require the obtaining of another conditional use approval.

D. The Borough Council shall impose such reasonable conditions as it deems necessary to effect the intent and purpose of this Chapter and to protect the health, safety, and welfare of the citizens most directly affected by the proposed use. These conditions may include, but are not limited to, the following:

(1) Any promises or representations by the applicant with respect to its use or development of the property involved.

(2) (a) *Hours of Operation*.

(b) Special or additional screening or buffering including, but not limited to, that for solid waste storage areas.

(c) The design and location of buildings and other structures.

(d) Restrictions on noise levels, lighting levels, odor, and other potentially noxious effects.

(e) Restrictions on the distances of the proposed use from adjacent properties and between buildings and structures.

(f) Restrictions on parking with respect to both number and location of vehicles or spaces.

(g) Public safety.

(h) Safeguarding of uses on adjacent properties.

(i) Health and sanitation.

(j) Hours for loading and unloading.

(k) Traffic, street and highway improvements and controls.

E. Before voting on the approval of a conditional use, the Borough Council shall hold a hearing thereon, pursuant to public notice. The Borough Council shall submit each application to the Planning Commission at least 30 days prior to the hearing on such application to provide the Planning Commission an opportunity to submit recommendations. If, after any public hearing upon an application, the proposed application is revised, the Borough Council shall hold another public hearing, pursuant to public notice, before voting on the application.

F. All public hearings shall be conducted in accordance with the requirements outlined in §27-1506.2 of this Chapter except that any reference to "Board" shall be replaced with "Council" and references to "special exception" shall be replaced with "conditional use."

(*Ord. 12-8-97A*, 12/8/1997, §1509A; as added by *Ord. 99005*, 7/12/1999, §1.F)

§27-1511. Validity of this Chapter (Curative Amendment).

1. A landowner who, on substantive grounds, desires to challenge the validity of

this Chapter or map or any provision thereof which prohibits or restricts the use or development of land in which the landowner has an interest shall submit the challenge either to the Zoning Hearing Board or to the Borough Council, together with a request for a curative amendment.

2. Persons aggrieved by a use or development permitted on the land of another by this Chapter or map, or any provision thereof, who desire to challenge its validity on substantive grounds shall first submit their challenge to the Zoning Hearing Board for a decision thereon.

3. The submissions referred to in subsection .1 and .2 shall be governed by the following:

A. In challenges before the Zoning Hearing Board, the challenging party shall make a written request to the Board that it hold a hearing on its challenge. The request shall contain the reasons for the challenge. Where the landowner desires to challenge the validity of such ordinance and elects to proceed by curative amendment, the landowner's application to the Borough Council shall contain, in addition to the requirements of the written request hereof, the plans and explanatory materials describing the use or development proposed by the landowner in lieu of the use or development permitted by the challenged ordinance or map. Such plans or other materials shall not be required to meet the standards prescribed for preliminary, tentative, or final approval or for the issuance of a permit, so long as they provide reasonable notice of the proposed use or development and a sufficient basis for evaluating the challenged ordinance or map in light thereof. Nothing herein contained shall preclude the landowner from first seeking a final approval before submitting the landowner's challenge.

B. If the submission is made by the landowner to the Borough Council, the request also shall be accompanied by an amendment or amendments to this Chapter proposed by the landowner to cure the alleged defects therein.

C. If the submission is made to the Borough Council, the Borough Solicitor shall represent and advise it at the hearing or hearings.

D. The Borough Council may retain an independent attorney to present the defense of the challenged ordinance or map on its behalf and to present witnesses on its behalf.

E. Based upon the testimony presented at the hearing or hearings, the Borough Council or the Zoning Hearing Board, as the case may be, shall determine whether the challenged ordinance or map is defective, as alleged by the landowner. If a challenge heard by the Borough Council is found to have merit, the Borough Council shall proceed. If a challenge heard by a Zoning Hearing Board is found to have merit, the decision of the Zoning Hearing Board shall include recommended amendments to the challenged ordinance which will cure the defects found. In reaching its decision, the Zoning Hearing Board shall consider the amendments, plans, and explanatory material submitted by the landowner and shall also consider the following:

(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 this Chapter or map.

(3) The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources, and other natural features.

(4) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources, and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development, and any adverse environmental impacts.

(5) The impact of the proposal on the preservation of other land uses which are essential to public health and welfare.

F. The Borough Council or the Zoning Hearing Board, as the case may be, shall render its decision in compliance with the provisions of the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq*.

4. Public notice of the hearing shall include notice that the validity of this Chapter or map is in question and shall give the place where and the times when a copy of the request, including any plans, explanatory material, or proposed amendments maybe examined by the public.

5. The challenge shall be deemed denied when one of the following occurs:

A. The Zoning Hearing Board or Borough Council, as the case may be, fails to commence the hearing within the time limits required by law.

B. The Borough Council notifies the landowner that it will not adopt the curative amendment.

C. The Borough Council adopts another curative amendment which is unacceptable to the landowner.

D. The Zoning Hearing Board or Borough Council, as the case may be, fails to act on the request 45 days after the close of the last hearing on the request, unless the time is extended by mutual consent by the landowner and Borough.

6. Where a curative amendment proposal is approved by the grant of a curative amendment application by the Borough Council or a validity challenge is sustained by the Zoning Hearing Board or the court acts finally on appeal from denial of a curative amendment proposal or a validity challenge, and the proposal or challenge so approved requires a further application for subdivision or land development, the developer shall have 2 years from the date of such approval to file an application for preliminary or tentative approval. Within the 2-year period, no subsequent change or amendment in the zoning, subdivision, or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. Where the proposal appended to the curative amendment application or the validity challenge is approved but does not require further application under any subdivision or land development ordinance, the developer shall have 1 year within which to file for a building permit. Within the 1-year period, no subsequent change or amendment in the zoning, subdivision, or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity

challenge.

(*Ord. 12-8-97A*, 12/8/1997, §1510)

§27-1512. Amendments.

The Borough Council may from time to time, after public notice and hearing as hereinafter prescribed, amend, supplement, change, or repeal this Chapter including the Zoning Map. Any amendment, supplement, change, or repeal may be initiated by the Borough Planning Commission, the Borough Council, or by a petition to the Borough Council. Such amendment, supplement, change or repeal shall be submitted to the Borough Planning Commission for its recommendations and shall be specifically found by the Borough Council to be in accordance with the spirit and intent of the formally adopted portions of the Comprehensive Plan before final action shall be taken by the Borough Council.

A. *Amendments Initiated by the Borough Planning Commission*. When an amendment, supplement, change, or repeal is initiated by the Borough Planning Commission, the proposal shall be presented to the Borough Council, who shall then proceed in the same manner as with a petition to the Borough Council, which has already been reviewed by the Borough Planning Commission.

B. *Amendment Initiated by the Borough Council*. When an amendment, supplement, change, or repeal is initiated by the Borough Council, it shall submit the proposal to the Borough Planning Commission for review and recommendations.

C. *Procedure for Petition*. The petition for amendment, supplement, change, or repeal shall contain as fully as possible all the information requested by the Zoning Officer and shall be signed by all record owners of the property in question whose signature shall be notarized attesting to the truth and correctness of all the facts and information presented in the petition. A fee to be established by the Borough Council shall be paid upon the filing of such petition for change and for the purpose of defraying the costs of the proceedings prescribed herein.

D. *Public Hearing*. The Borough Council shall fix a time and place for a public hearing at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be given in compliance with the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq*.

(*Ord. 12-8-97A*, 12/8/1997, §1511)

Part 16

Administration and Enforcement

§27-1601. Zoning Officer.

The provisions of this Chapter shall be administered and enforced by a Zoning Officer and any assistants or subordinates who shall be appointed by the Borough Council. The Zoning Officer may be provided with the assistance of such persons as the Borough Council may direct. The compensation shall be determined by resolution of the Borough Council.

(*Ord. 12-8-97A*, 12/8/1997, §1601)

§27-1602. Duties and Responsibilities of Zoning Officer.

1. *General*. The Zoning Officer shall administer this Chapter in accordance with its legal terms and shall not have the power to permit any construction or any change of use which does not conform to this Chapter and to other applicable ordinances of the Borough of Akron and to the laws of the Commonwealth of Pennsylvania.

2. *Application and Permits*. The Zoning Officer shall receive applications and issue permits and/or certificates of use and occupancy for the erection, construction, alteration, repair, extension, replacement, relocation, conversion, and/or use and use and occupancy of any building, structure, sign, or land in the Borough, as described elsewhere herein.

3. *Inspections*. Before issuing any permit, the Zoning Officer may, at the Zoning Officer's discretion, examine or cause to be examined all buildings, structures, signs, or land and portions thereof for which an application has been filed for the erection, construction, alteration, repair, extension, replacement, relocation, conversion, and/or use. Thereafter, the Zoning Officer may make such inspections during the completion of work for which a permit has been issued. Upon completion of such work and before issuing a certificate of use and occupancy, a final inspection shall be made and all violations of approved plans or permit shall be noted, and the holder of the Permit shall be notified of the discrepancies.

4. *Complaints Regarding Violations*. The Zoning Officer may and, when in receipt of a signed written complaint stating fully the cause and basis thereof, shall investigate alleged violations of this Chapter. If a signed written complaint is received, the Zoning Officer shall endeavor to complete said investigation within 30 days of said complaint. A written report of investigation of this Chapter shall be prepared and maintained on file, with copies provided to the Borough Council.

5. *Official Records*. It shall be the duty of the Zoning Officer to maintain and be responsible for all pertinent records on zoning matters in the Borough. These records shall include, but not be limited to, all applications received, copies of all permits and certificates issued, copies of orders and findings of the Zoning Hearing Board, written complaints of alleged violations, records of all inspections made, a current copy of this Chapter and all amending ordinances, the official Zoning Map, and all other pertinent information. The records of the Zoning Officer's office shall be kept at the Borough municipal building and be available for the use of the Borough government and for

inspection of any interested person during normal office hours. The Zoning Officer shall at least annually submit to the Borough Council a written statement of all permits and certificates of use and occupancy issued and violations and stop work orders recommended or promulgated.

(*Ord. 12-8-97A*, 12/8/1997, §1602)

§27-1603. Permits.

1. *Requirements*. Until a permit has been obtained from the Zoning Officer, it shall be unlawful to (A) excavate, (B) store material, machinery, or equipment on a lot in connection with the erection, construction, placement, reconstruction, alteration, repair, extension, replacement, restoration, or conversion of any structure, building, or sign, or (C) change the use, area of use, percentage of use or open area, or displace the use of any land structure, building, sign, or portion thereof in the Borough.

2. *Form of Application*. The application for a permit shall be submitted in such form as the Zoning Officer may prescribe and shall be accompanied by the required fee as prescribed. Application for a permit shall be made by a landowner or developer (but must be co-signed by all landowners). The full names and addresses of the landowner or developer and of the responsible officers, if the landowner or developer is a corporate body, shall be stated in the application.

3. *Description of Work*. The application shall contain a general description of the proposed work and/or use and occupancy of all parts of the building, structure, or sign and such additional information as may be required by the Zoning Officer. The application for the permit shall be accompanied by a plot plan of the proposed building structure or sign drawn to scale with sufficient clarity to show the nature and character of the work to be performed, including off-street parking and loading space if required, the location of new and existing construction, and the distances of the same from the existing lot lines and street right-of-way lines, and such other information as the Zoning Officer shall reasonably require to make the Zoning Officer's determination hereunder.

4. *Issuance of Permit*. Upon receiving the application, the Zoning Officer shall examine the same within a reasonable time after filing. If the application or plans do not conform to the provisions of this Chapter and all pertinent laws and regulations, the Zoning Officer shall reject such application in writing, stating the reasons therefore. If satisfied that the proposed work or use conforms to the provisions of this Chapter and all other pertinent laws and ordinances and that the proposed permit has been properly applied for, the Zoning Officer shall issue a Permit therefore as soon as practical.

5. *Suspension of Permit*. The Permit shall expire 6 months from the date of issuance. Any permit issued shall become invalid if the authorized work is not commenced within 3 months after issuance of the permit or if the authorized work is suspended or abandoned for a period of 3 months after the time of commencing the work.

6. *Revocation of Permit*. The Zoning Officer may revoke a permit or approval issued under the provisions of this Chapter in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based, or if it is found that the work performed or the use to which the property is put is not in conformance with the application, approved plans, or provisions of all pertinent laws.

7. *Posting of Permit*. A true copy of the permit shall be kept on the site of operations and open to inspection by the Zoning Officer during the entire time of prosecution of the work and until the completion of same as defined in the application. A copy of all permits (other than certificates of use and occupancy) shall also be posted by the permittee so to be clearly visible from a public right-of-way.

(*Ord. 12-8-97A*, 12/8/1997, §1603)

§27-1604. Conditions of Permit.

1. *Payment of Fees*. No permit shall be issued until the fees required therefor prescribed by the Borough Council pursuant to resolution shall be paid to the Council. The payment of fees under this Section shall not relieve the applicant or holder of said permit from payment of other fees that may be required by this Chapter or by any other ordinances or laws.

2. *Compliance with Ordinance*. The permit shall be a license to proceed with the work and should not be construed as authority to violate, cancel, or set aside any of the provisions of this Chapter.

3. *Compliance with Permit and Plot Plan*. All work or use shall conform to the approved application and plans for which the permit has, been issued as well as the approved plot plan and application materials.

(*Ord. 12-8-97A*, 12/8/1997, §1604)

§27-1605. Certificate of Use and Occupancy.

1. *When Required*. It shall be unlawful to use or occupy any structure, building, land, or portion thereof until a certificate or use and occupancy has been issued by the Borough Zoning Officer. Such certificate shall not be issued unless the Zoning Officer has inspected said structure, building, or land and has determined that all provisions of this Chapter and other pertinent ordinances and laws have been satisfied.

2. *Form of Application*. The application for a certificate of use and occupancy shall be in such form as the Borough Zoning Officer may prescribe and shall be made at the same time as the application for a permit is filed with the Zoning Officer.

3. *Description of Use and Occupancy*. The application shall contain a description of the intended use and occupancy of any structure, building, sign, or land or portion thereof for which a permit is required herein.

4. *Action upon Application*. The Zoning Officer shall inspect or cause to be inspected any structure, building, sign, and/or land within 15 days after notification that the proposed work that was listed under the permit has been completed. If the Zoning Officer is satisfied that the work is in conformity and in compliance with the work listed in the issued permit and all other pertinent laws, the Zoning Officer shall issue a certificate of use and occupancy for the intended use listed in the approved application. If the Zoning Officer finds that the work has not been performed in accordance with the approved application, the Zoning Officer shall refuse to issue the certificate of use and occupancy and shall, in writing, give the reasons therefore.

5. *Availability of Certificate*. The certificate of use and occupancy for conforming and nonconforming uses, or a true copy thereof, shall be kept available by the property owner at the property for inspection by the Zoning Officer at all times.

6. *Temporary Certificate of Use and Occupancy*. Upon request of a holder of a permit, the Zoning Officer may issue a temporary certificate of use and occupancy for a structure, building, sign, or land or portion thereof before the entire work covered by the permit shall have been completed, provided that such portion or portions maybe used or occupied safely prior to full completion of the work without endangering life or public welfare. The Zoning Officer may also issue a temporary certificate of use and occupancy for such temporary uses as tents, trailers, and buildings on construction sites; use of land for religious or other public or semi-public purposes; and similar temporary use or occupancy. Such temporary certificates shall be for a period of time to be determined by the Zoning Officer; however, in no case shall it be for a period exceeding 6 months.

7. *Compliance with SALDO [Chapter 22] and SWMO [Chapter 17].* No final certificates of use and occupancy shall be granted until all structures required to be erected by the SWMO [Chapter 17] and the SALDO [Chapter 22] have been erected and inspected by the Borough and shown to be in compliance with the SWMO [Chapter 17], SALDO [Chapter 22] and this Chapter. [*Ord. 00076*]

(*Ord. 12-8-97A*, 12/8/1997, §1605; as amended by *Ord. 00076*, 4/14/2014, §21)

§27-1606. Enforcement, Penalty, and Remedy.

1. *General*. It shall be the duty of the Zoning Officer to enforce this Chapter.

2. *Violation*. The construction, alteration, or use of any structure, building, sign, or land or the change of use, area of use, percentage of use, displacement of the use of any structure, building sign, or land without first obtaining a permit; the use of any building, structure, sign, or land without receipt of a certificate of use and occupancy; the failure to obey and/or comply with any order, decree, or decision of either the Zoning Hearing Board, Zoning Officer, or Borough Council, or the failure to comply with any provisions of this Chapter are hereby declared to be violations of this Chapter.

3. *Enforcement Notice*. If it appears that a violation of this Chapter or any prior ordinance still in effect has occurred, the Zoning Officer shall send a written enforcement notice pursuant to and in compliance with the provisions of the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq*.

4. *Enforcement Remedies*.

A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Chapter or any prior ordinance still in effect shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Borough of Akron or its duly designated representatives, pay a judgment of up to $500 plus all court costs, including reasonable attorney's fees incurred by the Borough of Akron, as a result of seeking such enforcement.

B. Civil enforcement proceedings shall be commenced before any magisterial district judge and shall proceed in conformance with the provisions of the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq*. [*Ord. 00037*]

C. 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 this Chapter to have believed that there was no such violation. In such event, there shall be deemed to have been only one such violation

until the second day following the date of the determination of a violation by the District Justice. Thereafter, each day that a violation continues shall constitute a separate violation.

D. If the Defendant neither pays nor timely appeals the judgment, the Borough of Akron may enforce the judgment pursuant to the applicable Rules of Civil Procedure. All judgments, costs and reasonable attorney's fees collected for the violation of this Chapter shall be paid over to the Borough of Akron.

(*Ord. 12-8-97A*, 12/8/1997, §1606; as amended by *Ord. 00037*, 10/8/2007)

Part 17

Repealer, Validity and Effective Date

§27-1701. Repealer.

All Ordinances or parts of Ordinances that conflict or are inconsistent with the provisions of this Chapter are hereby repealed to the extent necessary to give this Chapter full force and effect. The Akron Borough Zoning Ordinance, Ordinance No. 153 of 1963, as amended, is hereby repealed totally except that the provisions thereof are hereby preserved as they relate to any actions currently pending in the Borough at the time of adoption of this Chapter.

(*Ord. 12-8-97A*, 12/8/1997, §1701

§27-1702. Validity.

If any Section, clause, provision, word, sentence or portion of this Chapter shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such Ordinance shall not affect any other Section, clause, provision or portion of this Chapter which is not in itself invalid or unconstitutional, and the remaining provisions of this Chapter shall in all respects survive, it being the intent of the Borough that the invalidity of any particular portion shall not in any way invalidate any other part of the Chapter

(*Ord. 12-8-97A*, 12/8/1997, §1702)

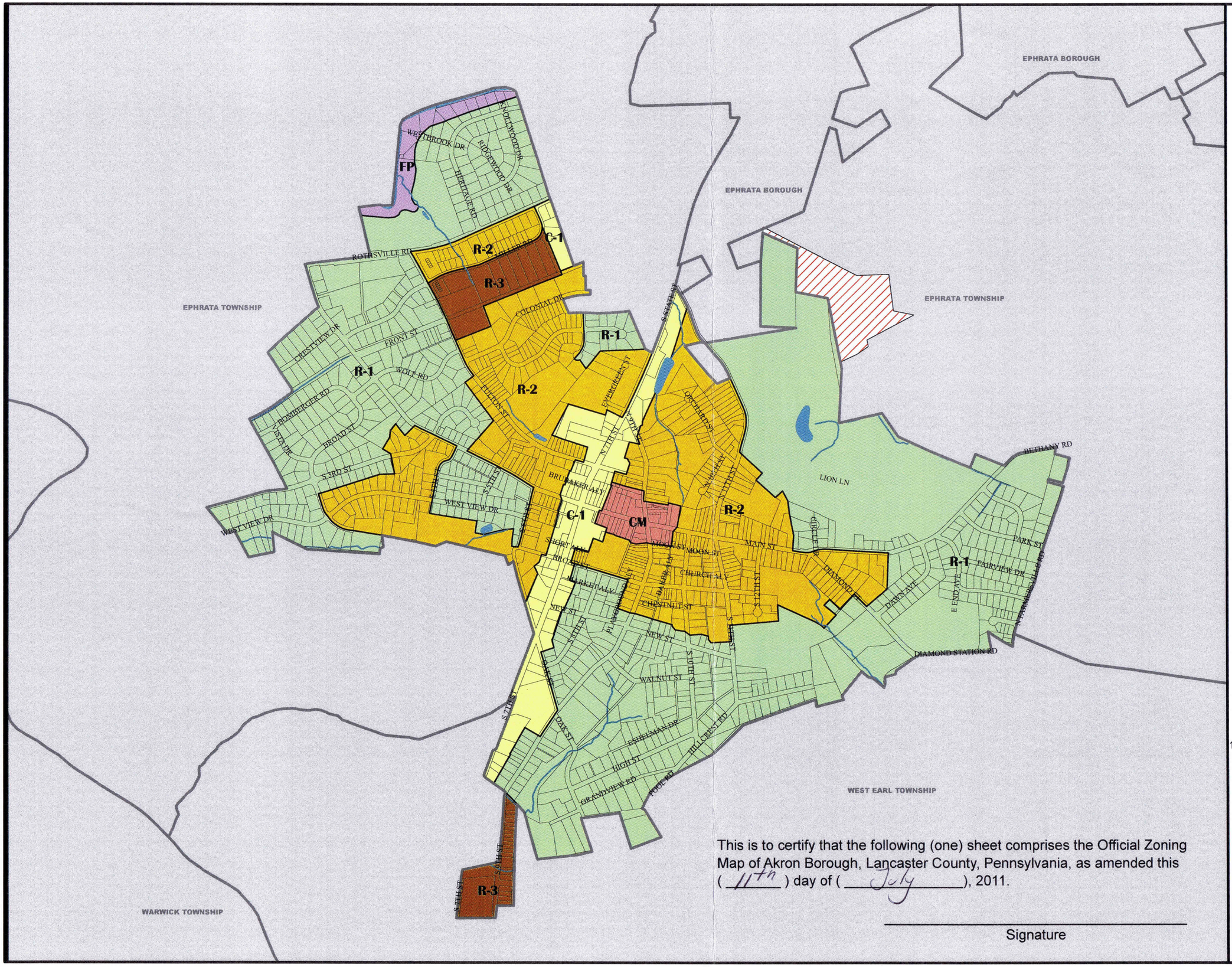
§17-1703. Effective Date.

This Chapter shall take effect the day following its adoption by the Akron Borough Council.

(*Ord. 12-8-97A*, 12/8/1997, §1703)

Zoning Map Amendments

Ord./Res.	Date	Subject
Ord. 00057	4/11/2011	Amending the Official Zoning Map by zoning certain newly annexed lands in the Borough of Akron as R-2 Residential-2 District.
Ord. 00059	7/11/2011	Rezone from Residential-2 (R-2) to Residential-3 (R-3) a certain tract of land located on the east side of Fulton Street, adjacent to the Borough's proposed linear park.



This is to certify that the following (one) sheet comprises the Official Zoning Map of Akron Borough, Lancaster County, Pennsylvania, as amended this (11th) day of (July), 2011.

Signature

THE BOROUGH OF AKRON

THE BOROUGH OF AKRON
117 South Seventh Street
P.O. Box 130
Akron, PA 17501
(717) 859-1600

LEGEND

- Municipal Boundaries
- Parcels
- Water Bodies

Zoning

- C-1 Commercial District
- CM Mixed Transition
- FP Flood Plain
- R-1 Residential District - Low Density
- R-2 Residential District - Medium Density
- R-3 Residential District - High Density
- Lloyd H. Roland Memorial Park Within Ephrata Township & Ephrata Borough

N

1,000 500 0 1,000 Feet

ZONING MAP

Prepared by:

ARRO
108 West Airport Road
Lititz, PA 17543
717-569-7021

U:\00198-Akron\aprs\Zoning 11x17.mxd 06/08/11